

PINE TRAIL CAPITAL TRUST

DECLARATION OF TRUST

December 22, 2017

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PINE TRAIL CAPITAL TRUST

THIS DECLARATION OF TRUST is dated as of 22nd Day of December, 2017 (the “**Date of Formation**”).

BETWEEN:

SEAN NAKAMOTO, a resident in the Province of Ontario,

as the first trustee (the “**Initial Trustee**”) of the trust constituted by this Declaration of Trust, and each person who after the date hereof becomes a trustee of the Trust as herein provided (each person, while a trustee of the Trust as herein provided, is a “**Trustee**”),

AND:

NICOLE BACSALMASI, a resident in the Province of Alberta (the “**Settlor**”)

AND:

All persons who after the date hereof become Trust Unitholders of the Trust as herein provided.

WHEREAS:

- A.** For the purpose of settling the Trust, the Settlor has on the Date of Formation paid to the Trustees an amount of \$10 in lawful money of Canada concurrently with execution of this declaration of trust (the “**Initial Contribution**”);
- B.** The Trust has been created for investment purposes, including acquiring, investing in, holding, transferring, disposing of and otherwise dealing with securities;
- C.** The Trustees have agreed to hold the Initial Contribution and all amounts and assets subsequently received under this Declaration of Trust or in respect of the investment of the assets of the Trust in accordance with the provisions hereinafter set forth;
- D.** The Settlor and the Trustees desire that the beneficiaries of the Trust, including the Settlor are to hold Trust Units;
- E.** It is intended that the Trust is to qualify as a “unit trust” under subsection 108(2) of the Tax Act (hereinafter defined) and as a “mutual fund trust” under subsection 132(6) of the Tax Act;
- F.** The parties hereto desire to set out the agreements, terms and conditions governing their mutual and respective rights, powers and obligations with respect to the settlement and administration of the Trust;

THIS DECLARATION OF TRUST WITNESSETH THAT in consideration of the premises and the mutual and respective covenants and agreements contained herein, the Trustees declare, covenant and agree with the Trust Unitholders, and the Trust Unitholders covenant and agree with the Trustees, as follows:

ARTICLE 1 INTERPRETATION

1.1 Definitions

In this Declaration of Trust, including the recitals hereto, unless the context otherwise requires:

- (a) “**ABCA**” means the *Business Corporations Act* (Alberta), RSA 2000, c B-9, as amended, including the regulations promulgated thereunder;
- (b) “**Administration and Services Agreement**” means an administration and services agreement between the Trust and one or more parties in connection with the performance of administrative duties on the Trust’s behalf;
- (c) “**Administrator**” has the meaning attributed thereto in an Administration and Services Agreement;
- (d) “**arrangement**” has, unless the context otherwise requires, the meaning given thereto in Section 15.1;
- (e) “**affiliate**”, where used to indicate a relationship between issuers, has the meaning given in NI 45-106. Without limiting the NI 45-106 definition, a person is an affiliate of or affiliated with another person if:
 - (i) one person is controlled, directly or indirectly, by the other person or issuer; or
 - (ii) each of them is controlled, directly or indirectly, by the same other person(s) or issuer(s),and in respect of such relationship, a person or issuer (first person) is considered to “**control**” another person or issuer (second person) if:
 - (iii) the first person beneficially owns or, directly or indirectly, exercises control or direction over securities of the second person carrying votes which, if exercised, entitle the first person to elect a majority of the directors (or other similar fiduciaries) of the second person, unless the first person holds the voting securities only to secure an obligation; or
 - (iv) the second person is a partnership (other than a limited partnership) and the first person holds more than 50% of the interests of the partnership; or
 - (v) the second person is a limited partnership, whose general partner is the first person;
- (f) “**annuitant**” means the annuitant, beneficiary or holder of an Exempt Plan or any other plan of which a Trust Unitholder is a trustee or carrier;
- (g) “**applicable law**” means, in relation to any person, transaction or event, all applicable provisions of laws, statutes, rules, regulations, official directives, published guidelines, standards, codes of practice (regardless of whether such guidelines, standards and codes of practice have been promulgated by statute or regulation), treaties, ordinances, municipal bylaws and orders of and the terms of all judgments, orders, decrees, directives, awards and writs issued by any governing

authority by which such person is bound or which has application to the transaction or event in question;

- (h) **“associate”**, where used to indicate a relationship with any person, has the meaning given in NI 45-106. Without limiting the NI 45-106 definition, when used to indicate a relation involving a person (first person), another person (second person) is an associate of or associated with the first person if:
 - (i) the second person beneficially owns or controls, directly or indirectly, voting securities of the first person entitling the second person to more than 10% of the voting rights attached to the outstanding voting securities of the first person;
 - (ii) the second person is a partner of the first person acting on behalf of the partnership of which they are partners;
 - (iii) the second person is a trust or estate in which the first person has a substantial beneficial interest or in respect of which the first person serves as a trustee or executor or in a similar capacity; or
 - (iv) where the first person is an individual, the second person is a relative of the first person, including:
 - (A) a spouse of the first person; or
 - (B) a relative of the first person's individual's spouse,

if the relative has the same home as the first person individual;
- (i) **“Auditor”** means the firm of chartered accountants in good standing with the Canadian Institute of Chartered Accountants or the Certified General Accountants Association, appointed by the Trustees from time to time in accordance with the provisions hereof as auditor for the Trust;
- (j) **“Business Day”** means a day, other than a Saturday, Sunday or statutory holiday, when banks are generally open in Calgary, Alberta, for the transaction of banking business;
- (k) **“Canadian Resident”** means a person who is not a Non-Resident;
- (l) **“CDS”** means CDS Clearing and Depository Services Inc. and its successors;
- (m) **“CDS Participant”** means a broker, dealer, bank, other financial institution or other person who, directly or indirectly, from time to time, effects book-based transfers with CDS and pledges of securities deposited with CDS;
- (n) **“Class A Units”** has the meaning given thereto in Subsection 3.1(b)(i);
- (o) **“Closing”** means the completion of the transactions for the issue and sale of securities, including Trust Units, under any Offering;
- (p) **“Closed Ended Trust”** means an *inter vivos* trust the interest of each beneficiary under which is described by reference to units of the trust and which does not qualify as a “unit trust” under

paragraph 108(2)(a) of the Tax Act but which may, for greater certainty, qualify as a “unit trust” under paragraph 108(2)(b) of the Tax Act;

- (q) **“Code”** means the United States Internal Revenue Code of 1986, as replaced or amended, from time to time;
- (r) **“Conversion Resolution”** has the meaning given thereto in Section 6.1;
- (s) **“Corporate Legislation”** means the ABCA or comparable or analogous legislation in another jurisdiction governing corporations, bodies corporate or companies in such other jurisdiction;
- (t) **“Court”** a court of competent jurisdiction to which an application in respect of an arrangement is made and includes, where an application respecting an arrangement is brought under the ABCA, the Court of Queen’s Bench of Alberta;
- (u) **“Date of Formation”** means the date first written above as the date on which the Trust was settled and created, notwithstanding any subsequent amendment, alteration or supplement to or restatement of this Declaration of Trust;
- (v) **“dissolution”** means the liquidation, dissolution, winding up or other termination of the Trust, whether voluntary or otherwise, or other distribution of the Trust Assets or repayment of capital among the Trust Unitholders for the purpose of liquidating, dissolving, winding up or otherwise terminating its affairs;
- (w) **“Distributable Cash”** has the meaning given thereto in Section 5.1;
- (x) **“Distribution Payment Date”** means, in respect of a Distribution Period such date following the completion of a Distribution Period, as determined from time to time by the Trustees;
- (y) **“Distribution Period”** means the period established by the Trustees from time to time;
- (z) **“Distribution Record Date”** means, for any Distribution Period, the last calendar day of each Distribution Period;
- (aa) **“Exempt Plan”** means, collectively, a trust governed by a registered retirement savings plan, a registered retirement income fund, a registered education savings plan, a deferred profit sharing plan, a registered disability savings plan and a tax free savings account, each as defined in the Tax Act;
- (bb) **“foreign private issuer”** has the meaning ascribed thereto in the *United States Securities Act of 1933*, as amended from time to time;
- (cc) **“GAAP”** means, at any time, accounting principles generally accepted in Canada, including those set out in the Handbook of the Canadian Institute of Chartered Accountant, as amended from time to time, applied on a consistent basis;
- (dd) **“governing authority”** means, in relation to any person, transaction or event, any: (i) national, federal, provincial, state, county, municipal or local governmental body (whether administrative, legislative, executive or otherwise), both domestic and foreign; (ii) agency, authority, ministry, department, board, bureau, commission, instrumentality, regulatory body, court, central bank or

other entity exercising executive, legislative, judicial, taxing, regulatory, administrative or similar powers or functions of or pertaining to government; (iii) court, arbitrator, commission or body exercising judicial, quasi-judicial, administrative or similar functions; and (iv) other body or entity created under the authority of or otherwise subject to the jurisdiction of any of the foregoing, in each case having jurisdiction over such person, transaction or event;

- (ee) **"Gross Book Value"** means, at any time, the greater of: (A) the value of the assets of the Trust and its consolidated subsidiaries, as shown on its then most recent consolidated statement of financial position prepared in accordance with IFRS, less the amount of any receivable reflecting interest rate subsidies on any debt assumed by the Trust; and (B) the historical cost of the assets of the Trust and its consolidated subsidiaries;
- (ff) **"IFRS"** means, at any time, the standards and interpretations adopted by the International Accounting Standards Board, as amended from time to time;
- (gg) **"Income of the Trust"** or **"Loss of the Trust"** means, for any Taxation Year, the net income or loss for such year determined pursuant to the provisions of the Tax Act having regard to the provisions thereof which relate to the calculation of taxable income of a trust, without reference to paragraph 82(1)(b) (dividend gross-up) and subsection 104(6) (deduction for payments out of the Trust) of the Tax Act (including any income realized by the Trust on the redemption of Trust Units *in specie* and designated by the Trust as income payable to the redeeming Trust Unitholders) and taking into account such other adjustments as may be determined by the Trust in its absolute discretion (provided that the Trustees exercise their discretion in this regard before the end of the particular Taxation Year); provided, however, that capital gains and capital losses shall be excluded from the computation of net income; and provided further that, if such calculation results in income there shall be deducted the amount of any non-capital losses (as defined in the Tax Act) of the Trust for any preceding years; and the Income of the Trust or Loss of the Trust for any period means the income or loss of the Trust for such period computed in accordance with the foregoing as if that period were the Taxation Year;
- (hh) **"Independent Trustee"** means, at any time, a Trustee who, in relation to the Trust from and after the Closing Date, is "independent" for purposes of National Instrument 58-101 — *Disclosure of Corporate Governance Practices* as replaced or amended from time to time (including any successor rule or policy thereto);
- (ii) **"Initial Contribution"** means the amount of \$10 paid by the Settlor to the Initial Trustee as of the Date of Formation for the purpose of settling the trust constituted under this Declaration of Trust;
- (jj) **"Initial Trustee"** means the person named above as the first trustee of the Trust;
- (kk) **"Lead Trustee"** has the meaning given thereto in Section 7.10;
- (ll) **"NCI"** means the non-certificated inventory system of CDS;
- (mm) **"Net Realized Capital Gains"** of the Trust for any Taxation Year, except as otherwise determined by the Trustees, are to be determined as the amount, if any, by which the aggregate of the capital gains of the Trust for the year exceeds the sum of:
 - (i) the aggregate of the capital losses of the Trust for the year; and

- (ii) the amount determined by the Trustees in respect of any net capital losses for prior Taxation Years which the Trust is permitted by the Tax Act to deduct in computing the taxable income of the Trust for the year, taking into account the proportion of a capital gain that is a taxable capital gain in the year and in the prior year.
- (nn) **“NI 45-106”** means National Instrument 45-106 - *Prospectus Exemptions* of the Canadian Securities Administrators, as amended or replaced from time to time;
- (oo) **“Monthly Limit”** has the meaning given thereto in Subsection 6.4(a);
- (pp) **“Nominating Trust Unitholder”** has the meaning given thereto in Section 12.3;
- (qq) **“Non-Resident”** means: (i) a person (within the meaning of the Tax Act but, for greater certainty, not including a partnership) who is not resident in Canada for the purposes of the Tax Act; or (ii) a partnership that is not a “Canadian partnership” as defined in the Tax Act;
- (rr) **“Offering”** means any offering, issue or sale of Trust Units or any rights, warrants or other securities to purchase, to convert into or exchange into Trust Units on a public or private basis in Canada or elsewhere;
- (ss) **“Offering Document”** means any one or more of a prospectus, information memorandum, private placement memorandum, offering memorandum, or similar public or private offering disclosure document or any understanding, commitment or subscription or other agreement relating to an Offering;
- (tt) **“Offering Expenses”** means amounts payable by the Trust in respect of, or as contemplated as part of, an Offering and the applicable Closing(s);
- (uu) **“Open Ended Trust”** means an *inter vivos* trust the interest of each beneficiary under which is described by reference to units of the trust which qualifies as a “unit trust” under paragraph 108(2)(a) of the Tax Act;
- (vv) **“Ordinary Resolution”** has the meaning given thereto in Subsection 12.7(b);
- (ww) **“Partnership”** means a limited partnership formed for the purpose of holding, directly or indirectly, the Trust Assets;
- (xx) **“Partnership Agreement”** an agreement of limited partnership governing the affairs of the Partnership, as the same may be amended or amended and restated from time to time;
- (yy) **“person”** means any individual, general partnership, limited partnership, joint venture, syndicate, sole proprietorship, company, limited liability company, joint stock company, corporation or other body corporate with or without share capital, joint stock company, entity, association, estate, trust, trust company, bank, pension fund, trustee, executor, administrator or other legal personal representative, regulatory body or agency, government or governmental agency, authority, department or political subdivision thereof, or other organization or entity, whether or not a legal entity, however designated or constituted;
- (zz) **“Preferred Unitholder”** means a beneficiary of the Trust that holds one or more Preferred Units, as indicated on the Register;

- (aaa) **"Preferred Units"** has the meaning given thereto in Subsection 3.1(b)(ii);
- (bbb) **"proportionate share"** means, for each Trust Unit and/or for each Trust Unitholder the fraction which:
- (i) has as its denominator the aggregate number of Trust Units issued by the Trust; and
 - (ii) has as its numerator:
 - (A) in the case of a Trust Unit, the number one; and
 - (B) in the case of a Trust Unitholder an amount equal to the aggregate number of Trust Units, held by such Trust Unitholder,
- as determined by the Trustees, subject always to any adjustment in accordance with Section 5.2 and 5.3. Without limiting the generality of the foregoing, a Trust Unitholder's proportionate share of any amount distributed hereunder is determined to be in the proportion that the number of Trust Units held by the Trust Unitholder is to the total number of Trust Units issued and outstanding as at the applicable Distribution Record Date or other applicable date for calculating such distribution;
- (ccc) **"Qualifying Transaction"** has the meaning ascribed to it pursuant to the policies of the TSX Venture Exchange, which for greater certainty shall only occur after the Conversion Resolution has been passed pursuant to Section 6.1 hereof;
- (ddd) **"Qualifying Transaction Party"** means a party that completes a Qualifying Transaction with the Trust.
- (eee) **"real property"** means property which in law is real property and includes, whether or not the same would in law be real property, leaseholds, mortgages, undivided joint interests in real property (whether by way of tenancy-in-common, joint tenancy, co-ownership, joint venture or otherwise), any interests in any of the foregoing and securities of trusts, corporations or partnerships the sole or principal purpose and activity of which is to invest in, hold and deal in real property;
- (fff) **"Redeemable Partnership Units"** means any class of units issued by a Partnership held directly or indirectly by the Trust that are exchangeable in whole or in part for Trust Units;
- (ggg) **"Redemption Date"** has the meaning given thereto in Subsection 6.2(b);
- (hhh) **"Redemption Notes"** means the unsecured subordinated promissory notes of the Trust having a maturity date of 10 years or less and interest rate to be determined at the time of issuance by the Trustees, such promissory notes to provide that the Trust shall at any time be allowed to prepay all or any part of the outstanding principal without notice or bonus;
- (iii) **"Redemption Price"** has the meaning given thereto in Subsection 6.3(a);
- (jjj) **"Register"** means the register indicating the names and addresses of the Trust Unitholders and the number and class or series of Trust Units held by them, to be maintained and updated by the

Trustees or by such other person (including a Transfer Agent for any class of series of Trust Units) duly authorized by the Trustees for such purpose on the Trustees' behalf;

- (kkk) **"securities laws"** means, collectively: (i) the applicable securities laws of each of the provinces and territories of Canada and the respective regulations and rules made under those securities laws together with all published policy statements, instruments, blanket orders and rulings of Canadian securities commissions and all discretionary orders or rulings, if any, of Canadian securities commissions made in connection with the transactions contemplated by the in the Offering and this Declaration of Trust; and (ii) if and to the extent applicable, securities laws of the United States and the blue sky laws of any state within the United States;
- (lll) **"Settlor"** means the person named above as the first trustee of the Trust;
- (mmm) **"Special Resolution"** has the meaning given thereto in Subsection 12.7(a);
- (nnn) **"Subsequent Investment"** means any of the investments which the Trust may make pursuant to Section 4.2;
- (ooo) **"subsidiary"** has the meaning given in NI 45-106. Without limiting the NI 45-106 definition, a person or issuer (second person) is a subsidiary of another person or issuer (first person) if it is controlled directly or indirectly by the first person, and includes a subsidiary of the second person; and, in respect of such relationship, the first person is considered to **"control"** the second person or the subsidiary of the second person if:
 - (i) the first person beneficially owns, directly or indirectly, or exercises control or direction over securities of the second person carrying votes which, if exercised, entitle the first person to elect a majority of the directors (or other similar fiduciaries) of the second person, unless the first person holds the voting securities only to secure an obligation; or
 - (ii) the second person is a partnership (other than a limited partnership) and the first person holds more than 50% of the interests of the partnership; or
 - (iii) the second person is a limited partnership, whose general partner is the first person;
- (ppp) **"Tax Act"** means the *Income Tax Act* (Canada), RSC 1985, c 1 (5th Supp), including the *Income Tax Regulations* from time to time promulgated thereunder, as amended from time to time;
- (qqq) **"Taxation Year"** means the taxation year of the Trust for the purposes of the Tax Act;
- (rrr) **"Transfer Agent"** means such person as may from time to time be appointed by the Trust to act as registrar and transfer agent for one or more classes or series of Trust Units, together with any sub-transfer agent duly appointed by the Transfer Agent;
- (sss) **"Trust"** means the trust constituted under this Declaration of Trust, as from time to time amended, supplemented or restated;
- (ttt) **"Trust Assets"** means, at any time, such of the following monies, properties and other assets as are at such time held by the Trust or by the Trustees on behalf of the Trust:
 - (i) the Initial Contribution (until returned pursuant to this Declaration of Trust);

- (ii) all funds, securities of any person or property derived from the issuance or sale of Trust Units, and other cash or property received or otherwise acquired by the Trust, including real property;
 - (iii) securities of any subsidiary or affiliate of the Trust, including interests in any partnership other than a general partnership;
 - (iv) any Subsequent Investment held from time to time by or on behalf of the Trust;
 - (v) any other securities of any subsidiary or affiliate of the Trust held from time to time by or on behalf of the Trust;
 - (vi) any proceeds of disposition of any of the foregoing property or in respect of the investment or substitution of the properties and assets of the Trust; and
 - (vii) all income, interest, dividends, distributions, profit, return of capital, gains and accretions and all substituted assets, rights and benefits of any kind or nature whatsoever arising directly or indirectly from or in connection with or accruing to such foregoing property or such proceeds of disposition;
- (uuu) **"Trustee"**, at any time, means an individual who is, in accordance with the provisions hereof, a trustee of the Trust at that time including, so long as each remains a trustee, each of the Initial Trustee, and **"Trustees"** means, at any time, all of the individuals, each of whom is at that time a trustee;
- (vvv) **"Trustees' Regulations"** means the regulations adopted by the Trustees pursuant to Section 4.5;
- (www) **"Trust Liabilities"** has the meaning given thereto in Subsection 2.9(a);
- (xxx) **"Trust Unit Certificate"** means a certificate, in a form that complies with the requirements of this Declaration of Trust (including an electronic statement, if appropriate) and is approved by the Trustee(s), evidencing one or more Trust Units, issued, signed and authenticated in accordance with this Declaration of Trust;
- (yyy) **"Trust Units"** means a unit of interest in the Trust authorized and issued hereunder, including the Class A Units, and, if the Trust creates any class or series of Preferred Units, then the definition of "Trust Units" herein may include such Preferred Units to the extent required pursuant to the terms and conditions of such class or series of Preferred Units;
- (zzz) **"Trust Unitholders"** means at any time the holders at that time of one or more Trust Units, as shown on the Register(s) maintained by or on behalf of the Trustees;
- (aaaa) **"U.S. Non-Resident"** means a person who is not a United States person under the Code;
- (bbbb) **"U.S. Resident"** means a Trust Unitholder, either beneficially or of record, who at the relevant time, for purposes of the United States securities laws, is resident in the United States, as such residency may be determined for the purpose of establishing the Trust as a "foreign private issuer" under United States securities laws or in providing for an exemption for the Trust and any of the Trust's affiliates from reporting requirements under the United States Securities Exchange Act of 1934, as amended;

1.2 Expanded Meanings

In this Declaration of Trust, unless otherwise expressly provided or unless the context otherwise requires:

- (a) words importing the masculine gender include the feminine and neuter genders, corporations, partnerships and other persons, and words in the singular include the plural, and vice versa, wherever the context requires;
- (b) the division of this instrument into Articles, Sections and Subsections (or other portions or subdivision), the provision of a table of contents and the insertion of headings are for convenience of reference only, do not form a part of this Declaration of Trust and are not to be considered in the construction or interpretation of this instrument;
- (c) any reference to a designated "**Article**", "**Section**", "**Subsection**" or other portion or subdivision, is a reference to the designated Article, Section, Subsection or other portion or subdivision of this Declaration of Trust;
- (d) references to "**this Declaration of Trust**", "**hereto**", "**herein**", "**hereof**", "**hereby**", "**hereunder**" and similar expressions refer to this instrument and not to any particular Article, Section or portion hereof, unless the context so requires, and include any and every other instrument supplemental or ancillary hereto;
- (e) any reference to a statute or regulatory instrument adopted by a governing authority includes and is deemed to be a reference to the regulations, rules, policies or orders made pursuant to it, and to all amendments made to the statute, regulatory instrument, regulations, rules, policies or orders in force from time to time, and to any statute or regulation that may be passed which has the effect of supplementing or superseding the statute referred to or the relevant regulation;
- (f) any reference to a person includes and is deemed to be a reference to any person that is a successor to that person;
- (g) the word "**include**", "**includes**", or "**including**", when following any general term or statement, is not to be construed as limiting the general term or statement to the specific items or matters set forth or to similar items or matters, but rather permits it to refer to all other items or matters that could reasonably fall within its broadest possible scope, whether or not non-limiting language (such as "without limitation" or "but not limited to" or words of similar import) is used with reference thereto;
- (h) the terms "**in writing**" or "**written**" include printing, typewriting, or any electronic means of communication by which words are capable of being visually reproduced at a distant point of reception, including by facsimile and email transmissions; and
- (i) the word "**or**" is not exclusive.

1.3 References to Acts Performed by the Trust

For greater certainty, where any reference is made in this Declaration of Trust, or any other instrument to which the Trust or the Trustees, as trustees of the Trust, are a party, to an act to be performed by, an appointment to be made by, an obligation or liability of, an asset or right of, a discharge

or release to be provided by, a suit or proceeding to be taken by or against, or a covenant, representation or warranty by or with respect to (i) the Trust or (ii) the Trustees,, such reference is to be construed and applied for all purposes as if it referred to an act to be performed, etc. by the Trustees on behalf of the Trust or by some other person duly authorized to do so by the Trustees or pursuant to the provisions hereof and, where reference is made in this Declaration of Trust to actions, rights or obligations of the Trustees, such reference is to be construed and applied for all purposes to refer to actions, rights or obligations of the Trustees in their capacity as trustees of the Trust, and not in their other capacities, unless the context otherwise requires.

1.4 Tax Act

Any reference herein to a particular provision of the Tax Act includes a reference to that provision as it may be renumbered or amended from time to time. Where there are proposals for amendments to the Tax Act which have not been enacted into law or proclaimed into force on or before the date on which such proposals are to become effective, the Trustees may take such proposals into consideration and apply the provisions hereof as if such proposals had been enacted into law and proclaimed into force.

1.5 Time

In this Declaration of Trust, unless otherwise expressly provided or unless the context otherwise requires:

- (a) time is of the essence;
- (b) notwithstanding (a), if any day on which any amount is to be determined or any action is required to be taken hereunder is not a Business Day, then such amount is to be determined or such action is to be required to be taken at or before the requisite time on the next succeeding day that is a Business Day. This Section is not applicable to Sections 5.1, 5.2 or 5.3; and
- (c) a reference to time or date is to the local time or date in Calgary, Alberta, unless specifically indicated otherwise.

1.6 Accounting Principles

All accounting terms not specifically defined in this Declaration of Trust are to be interpreted in accordance with GAAP or, to the extent applicable to the Trust, IFRS. Where the character or amount of any asset or liability or item of revenue or expense or amount of equity is required to be determined, or any consolidation or other accounting computation is required to be made, for the purpose of this Declaration of Trust, such determination or calculation is to be made in accordance with GAAP or, to the extent applicable to the Trust, IFRS, and except as otherwise specified herein or as otherwise determined by the Trustees.

1.7 Currency

- (a) In this Declaration of Trust all references to currency herein are references to lawful money of Canada; and
- (b) the Trustees may change the functional currency of the Trust from time to time.

1.8 Governing Law

This Declaration of Trust is to be interpreted and governed by, and construed in accordance with, the applicable law of the Province of Alberta and the federal laws of Canada applicable therein and is to be treated in all respects as an Alberta contract. Any and all disputes arising under this Declaration of Trust, whether as to interpretation, performance or otherwise, are subject to the exclusive jurisdiction of the courts of the Province of Alberta. The parties hereto and the Trust Unitholders hereby irrevocably submit and attorn to the jurisdiction of the courts of the Province of Alberta.

ARTICLE 2 DECLARATION OF TRUST

2.1 Establishment of Trust

The Trustees hereby agree and undertake to act as the trustees of the Trust and acknowledge and declare that they hold the Trust Assets in trust for, and agree to administer the Trust Assets for, the use and benefit of Trust Unitholders, their successors, permitted assigns and personal representatives, and subject to the terms and conditions hereinafter declared and set forth, such trust to constitute the Trust hereunder.

2.2 Initial Contribution

It is acknowledged that the Settlor has paid, concurrently with the execution of this Declaration of Trust, the Initial Contribution to the Initial Trustee for the purpose of settling the Trust, and the Settlor is issued 200 Class A Units in the Trust in consideration of the Initial Contribution, subject to Section 3.11. Further, it is acknowledged and understood that upon the first issuance of additional Class A Units pursuant to any financing of the Trust the 200 Class A Units issued to the Settlor will be cancelled and the Initial Contribution shall be returned to the Settlor.

2.3 Name of Trust

- (a) The Trust is to be known and designated as the “**PINE TRAIL CAPITAL TRUST**” and, whenever practicable, lawful and convenient, the property of the Trust is to be held and the affairs of the Trust are to be conducted and transacted under that name. If the Trustees determine that the use of such name is not practicable, legal or convenient, the Trust may use such other designation or may adopt such other name as the Trustees deem appropriate, and the Trust may hold property, including Trust Assets, and conduct and transact its affairs under such other designation or name. Without limiting the foregoing, the Trustees may enter into agreements and other documents for and on behalf of the Trust under the name “**PINE TRAIL CAPITAL TRUST**” and the Trustees hereby acknowledge and confirm that any such agreement or document so entered into is for all purposes and is deemed to have been entered into by, and binding on, the Trustees, as trustees for and on behalf of the Trust.
- (b) Without limiting the foregoing, the Trust may, in conjunction with the completion of a Qualifying Transaction, change or adopt any such other name as the Trustees deem appropriate.

2.4 Head Office

The head office of the Trust hereby created is to be located at Bankers Court, 15th Floor, 850 2nd Street S.W., Calgary, AB, Canada T2P 0R8, or such other place or places in Canada as the Trustees

may from time to time designate. The Trust may have such other offices or places for the conduct of its affairs as the Trustee may from time to time determine as necessary or desirable.

2.5 Nature of the Trust

The Trust is an unincorporated *inter vivos* trust the interest of each beneficiary under which is described with reference to Trust Units, established for the purposes specified in Sections 2.12 and 4.1. The Trust is not, is not to be deemed as and is not to be treated as, a general partnership, limited partnership, syndicate, association, joint venture, company, corporation or joint stock company, nor is any Trustee, Trust Unitholder or any person deemed to be, treated in any way whatsoever as, or liable or responsible hereunder as, partners or joint venturers. None of Trustees, officers or employees are, or are deemed to be, agents of the Trust Unitholders. The relationship of the Trust Unitholders to the Trust, the Trustees and the Trust Assets is to be solely that of beneficiaries of the Trust and the rights of Trust Unitholders are limited to those conferred upon them by this Declaration of Trust and applicable law. The Trust, the Trustee, the Trust Units and the Trust Assets are governed by the general law of trusts, except as such general law of trusts has been or is from time to time modified, altered or abridged for trusts generally or for this Trust by:

- (a) applicable law, regulations or other requirements imposed by applicable securities regulatory authorities or other governing authorities; and
- (b) the terms, conditions and trusts set forth in this Declaration of Trust.

2.6 Ownership of Trust Assets

Except as specifically provided herein:

- (a) the legal ownership of the Trust Assets and the right to conduct the activities of the Trust are vested exclusively in the Trustees, or such other person(s) as the Trustees may determine; and
- (b) no Trust Unitholder or any group of Trust Unitholders is entitled to interfere with or give any direction to the Trustees with respect to the affairs of the Trust or in connection with the exercise of any powers or authorities conferred upon the Trustees under this Declaration of Trust.

The Trust Units are personal property and confer upon the holders thereof only the interest and rights specifically set forth in this Declaration of Trust. No Trust Unitholder has or is deemed to have any right of ownership of any Trust Assets.

2.7 Rights of Trust Unitholders to Trust Assets

The rights of each Trust Unitholder to call for a distribution or division of assets, monies, funds, income and capital gains held, received or realized by the Trustees are limited to those contained in this Declaration of Trust. Except as provided herein, no Trust Unitholder is entitled to call for any partition or division of the Trust Assets or for a distribution of any particular asset forming part of the Trust Assets or of any particular monies or funds received by the Trustees.

2.8 Trust Unitholders Bound

This Declaration of Trust is binding upon all persons who become Trust Unitholders from time to time. Upon completion of a purchase or other acquisition of a Trust Unit, the Trust Unitholder thereof is to be deemed to have agreed to be bound, and is so bound, by this Declaration of Trust.

2.9 Liability of Trust Unitholders

- (a) Subject to Subsection 2.9(e), no Trust Unitholder, in its capacity as such, shall incur or is subject to any liability, direct or indirect, absolute or contingent, in contract or in tort or of any other kind to any person, and no resort is to be had to, nor shall recourse or satisfaction be sought from the private property of any Trust Unitholder for any liability whatsoever, including in connection with:
- (i) the Trust Assets or the ownership, use, operation, acquisition or disposition thereof or exercise or enjoyment of the rights, privileges, conditions or benefits attached thereto, associated therewith or derived therefrom;
 - (ii) the obligations, liabilities, activities or affairs of the Trust;
 - (iii) any actual or alleged act or omission of the Trustees or by any other person in respect of the activities or affairs of the Trust (whether or not authorized by or pursuant to this Declaration of Trust);
 - (iv) any actual or alleged act or omission of the Trustees or any other person in the performance or exercise, or purported or attempted performance or exercise, of any obligation, power, discretion or authority conferred upon the Trustees or such other person in respect of the activities or affairs of the Trust (whether or not authorized by or pursuant to this Declaration of Trust);
 - (v) any transaction entered into by the Trustees or by any other person in respect of the activities or affairs of the Trust (whether or not authorized by or pursuant to this Declaration of Trust); or
 - (vi) any taxes, levies, imposts or charges or fines, penalties or interest in respect thereof payable by the Trust or by the Trustees or by any other person on behalf of or in connection with the activities or affairs of the Trust, except withholding taxes as contemplated in Section 5.8,
- (collectively, "**Trust Liabilities**").
- (b) No Trust Unitholder, in its capacity as such, is liable to indemnify the Trustees or any other person with respect to any Trust Liabilities.
- (c) To the extent that, notwithstanding the provisions of this Section 2.9 or applicable law, any Trust Unitholder, in its capacity as such, may be determined by a judgment of a court of competent jurisdiction to be subject to or liable in respect of any Trust Liabilities, such judgment and any writ of execution or similar process in respect thereof is to be enforceable only against, and is to be satisfied only out of, the holder's Trust Units, representing his share of the Trust Assets.

- (d) To the extent that, contrary to the provisions of this Section 2.9, any Trust Unitholder is held personally liable as such to any other person in respect of any Trust Liabilities, such Trust Unitholder is entitled to indemnity and reimbursement out of the Trust Assets to the full extent of such liability and for all costs of any litigation or other proceedings in which such liability has been determined, including all fees and disbursements of counsel. The rights accruing to a Trust Unitholder under this Subsection 2.9(d) do not exclude any other rights to which such Trust Unitholder may be lawfully entitled, nor does anything herein contained restrict the right of the Trustees to indemnify or reimburse a Trust Unitholder out of the Trust Assets in any appropriate situation not specially provided herein but, for greater certainty, the Trustees have no liability to reimburse a Trust Unitholder for taxes assessed against a Trust Unitholder by reason of or arising out of his ownership of Trust Units.
- (e) If any Trust Assets are distributed or declared to be distributable to Trust Unitholders contrary to the provisions of any subordination agreement (each, a “**Subordination Agreement**”) between the Trust and the persons entitled to enforce any of the indebtedness of any subsidiary of the Trust other than the Trust then the persons entitled to enforce such Subordination Agreements or subordination provisions are entitled to pursue whatever remedies may be available to them to enforce such Subordination Agreements or provisions and the limitations in Subsection 2.9(c) do not apply to any judgment in respect of (and to the extent only based on) such contrary distribution and no Trust Unitholder has the right to enforce any distribution contrary to such Subordination Agreements or provisions.

2.10 Liability under Contracts

- (a) Any written instrument creating an obligation with respect to the Trust is conclusively taken to have been executed or done by the Trustees only in the capacity of Trustees under this Declaration of Trust. Any written instrument creating an obligation of the Trust is, to the extent reasonably practicable, to contain a disavowal of liability upon and waiver of claim against the Trustees or any Trust Unitholder and indicate that the obligations under such instrument are not personally binding upon, nor will resort be had to the private property of the Trustees, any Trust Unitholder, or any director, officer, employee or agent of the Trustees or Trust Unitholder, but only the Trust Assets or a specific portion thereof will be bound. The omission of a provision of the nature described in this Section 2.10 does not operate to impose personal liability on the Trustees, any Trust Unitholders, or any of the officers, employees, agents, heirs, executors or personal representatives of any of them.
- (b) Without limiting the generality of clause (a), all reasonable commercial efforts are to be made to ensure that every contract entered into by or on behalf of the Trust, whether by the Trustees, or otherwise, contains (except as the Trustees may otherwise expressly agree in writing with respect to personal liability of the Trustees) a provision substantially to the following effect:

“The parties hereto acknowledge that the Trustees are entering into this agreement solely in their capacities as trustees or as agents, as the case may be, on behalf of PINE TRAIL CAPITAL TRUST (the “Fund”) and the obligations of the Fund hereunder are not personally binding upon the Trustees, or any of the registered or beneficial unitholders of the Fund (“Trust Unitholders”) or any annuitant, beneficiary or holder under a plan of which a Trust Unitholder is a trustee or carrier (an “annuitant”) and that any recourse against the Fund, the Trustees, or any Trust Unitholder or

annuitant in any manner in respect of any indebtedness, obligation or liability of the Fund arising hereunder or arising in connection herewith or from the matters to which this agreement relates, if any, including without limitation claims based on alleged negligence or otherwise tortious behaviour, is limited to, and is to be satisfied only out of, the Trust Assets as defined in the Declaration of Trust dated as of December 22, 2017 as may be amended, supplemented or restated from time to time.”

This provision is to be held in trust and enforced by the Trustees for the benefit of the Trust Unitholders and annuitants. The omission of such a provision from any such written agreement shall not operate to impose personal liability on the Trustees or any Trust Unitholder or annuitant. The omission of such statement from any such document or instrument does not render any Trustee, Trust Unitholder or annuitant liable to any person, nor is any Trustee, Trust Unitholder or annuitant liable for such omission. If, notwithstanding this provision, any Trustee, Trust Unitholder or annuitant is to be held liable to any person by reason of the omission of such statement from any such agreement, undertaking or obligation, such Trustee, Trust Unitholder or annuitant is to be entitled to indemnity and reimbursement out of the Trust Assets to the full extent of such liability.

- (c) If, despite the foregoing provisions, any Trust Unitholder or annuitant is held personally liable as such to any other person in respect of any debt, liability or obligation incurred by or on behalf of the Trust, or any action taken on behalf of the Trust, such Trust Unitholder, or annuitant is entitled to indemnity and reimbursement out of the Trust Assets to the full extent of such liability and to the costs of any litigation or other proceedings in which such liability has been determined, including the fees and disbursements of counsel. The rights accruing to a Trust Unitholder or annuitant under this Section 2.10 do not exclude any other rights to which such Trust Unitholder or annuitant may be lawfully entitled, nor does anything herein contained restrict the right of the Trustees to indemnify or reimburse a Trust Unitholder or annuitant out of the Trust Assets in any appropriate situation even though not specifically provided herein, but, for greater certainty, the Trustees have no liability to reimburse Trust Unitholders or annuitants for taxes assessed against them by reason of their ownership of Trust Units nor for any losses suffered by reason of changes in the market value of investments forming part of the Trust Assets.

2.11 Conduct of Operations

The activities of the Trust are to be conducted in such a way and in such jurisdictions as to avoid as far as possible any material risk of liability to the Trust Unitholders for claims against the Trust including by obtaining appropriate insurance, where available.

2.12 Mutual Fund Trust Status

It is intended that the Trust qualify as a “mutual fund trust” for the purposes of the Tax Act from the beginning of its first Taxation Year. In furtherance of that intention, the Trustees intend to cause the Trust to satisfy the conditions required to qualify as a “mutual fund trust” on or before the 91st day after the end of its first Taxation Year and to elect, in the return of income for the first Taxation Year pursuant to subsection 132(6.1) of the Tax Act, that the Trust be deemed to be a “mutual fund trust” for the purposes of the Tax Act for the entire year from the beginning of its first Taxation Year.

Once the Trust so qualifies as a “mutual fund trust” for the purposes of the Tax Act and notwithstanding anything else contained in this Declaration of Trust, the Trust shall not make any investment, take any action or omit to take any action that would result in the Trust failing or ceasing to qualify as a “mutual fund trust” for the purposes of the Tax Act; provided however, that nothing contained in this Section 2.12 shall create any legal or contractual obligation of the Trust or the Trustees to pay or declare a distribution.

In addition to any other limitations imposed in respect of the undertakings of the Trust, including the limitations on investments of the Trust set out in Article 4, the undertakings of the trust shall be limited to:

- (a) the investing of its funds in property (other than real property or an interest in real property or an immovable or a real right in an immovable);
- (b) the acquiring, holding, maintaining, improving, leasing or managing of any real property (or interest in real property) or of any immovable (or real right in immovables) that is capital property of the Trust; or

any combination of the activities described in (a) and (b) above or any activity ancillary or incidental thereto.

2.13 Non-SIFT Trust Status

It is intended that the Trust not become a “specified investment flow-through trust” (“**SIFT trust**”), as defined in Section 122.1 of the Tax Act (the “**SIFT Rules**”). If at any time the Trust Units or any of them become listed or traded on any stock exchange or other public market, within the meaning of the SIFT Rules, the Trustees will use their reasonable commercial efforts to operate and restrict its investment and activities to ensure that the Trust qualifies as a “real estate investment trust”, as defined in Section 122.1 of the Tax Act.

ARTICLE 3 TRUST UNITS

3.1 Trust Units

- (a) The beneficial interests in the Trust are divided into and represented by units, described and designated as “**Trust Units**”, that are authorized and issued in accordance with this Declaration of Trust and which carry and are entitled to the rights and are subject to the limitations, rights, privileges, restrictions and conditions set out in or pursuant to this Declaration of Trust applicable to each.
- (b) **Trust Units:** Each Trust Unit vests indefeasibly in the holder thereof and the interest in the Trust at any time and from time to time of each Trust Unitholder is determined by the number of Trust Units registered in the name of the Trust Unitholder as is proportionate to the total number of Trust Units, subject always to the limitations, rights, privileges, restrictions and conditions attaching to Trust Units of a particular class or series or otherwise set out in this Declaration of Trust. Except as expressly provided in this Declaration of Trust with respect to the Trust Units of a particular class or series, no Trust Unitholder holding a Trust Unit has any preference, priority or right in any circumstance over any other Trust Unitholder (other than arising out of or resulting from the number of Trust Units held by such Trust Unitholder). Without limiting the generality of the foregoing, the Trust is authorized to issue the following classes of Trust Units:

- (i) **Class A Units:** an unlimited number of Class A Units of the Trust, each of which has the following limitations, rights, privileges, restrictions and conditions:
- (A) *Right to Vote* - except as otherwise expressly provided in this Declaration of Trust, the right to receive notice of and to attend any meetings of Trust Unitholders and to one vote for each Class A Unit held; and
 - (B) *Participation in Allocations & Distributions* - subject to Article 5 and subject to any preferences established in favour of Preferred Unitholders of any series, the right to a proportionate share of:
 - (1) all allocations (including allocations of Income of the Trust and Net Realized Capital Gains) to Trust Unitholders made in accordance with the terms of this Declaration of Trust;
 - (2) all advances or distributions to Trust Unitholders of cash or other property (including amounts out of the Income of the Trust, Distributable Cash, Net Realized Capital Gains or other amounts) and any other advances or distributions of a similar nature made in accordance with this Declaration of Trust; and
 - (3) the remaining Trust Assets on dissolution in accordance with the terms of this Declaration of Trust.
- (ii) **Preferred Units, issuable in series:** an unlimited number of Preferred Units of the Trust (the "**Preferred Units**"), which may from time to time be issued in one or more series having the number of Preferred Units comprised in each series and the designation, limitations, rights, privileges, restrictions and conditions attaching to each series of Preferred Units, as determined by the Trustee(s) at any time and from time to time before such issue in accordance with this Section, including that:
- (A) The Trustee(s) may determine and fix at any time and from time to time before the issue of any Preferred Units of a particular series, by resolving to approve and authorize an instrument setting forth the number of Preferred Units comprised in the series and the designation, limitations, rights, privileges, restrictions and conditions attaching to the series of Preferred Units, and upon such approval by resolution such instrument is deemed to be attached to and forms an integral part of this Declaration of Trust as a schedule hereto and this Declaration of Trust is thereupon amended and restated, all without approval or authorization of any of the Trust Unitholders.
 - (B) Without limiting the generality of the foregoing, the Trustee(s) may determine and fix from time to time before the issue of any of Preferred Units of the series on the basis contemplated in paragraph (A) hereof, any voting rights, the right to, or rate or amount of, allocations (cumulative or otherwise) of Income of the Trust, Net Realized Capital Gains or such other amounts determined by the Trustees in proportion to all other Trust Units, the right to share in, or rate or amount of, advances or distributions of cash (including Distributable Cash) and any other distributions to Trust Unitholders (cumulative or otherwise) and to receive the

remaining Trust Assets on dissolution in proportion to all other Trust Units, the dates of payment of distributions, any preferential rights over other another class of Trust Units including preferential or cumulative rights to distributions or assets upon dissolution of the Trust, the terms and conditions of redemption, purchase and conversion (if any), sinking fund provisions (if any), the rate or amount of the remaining Trust Assets to be returned to Preferred Unitholders of such series upon liquidation, dissolution of the Trust.

- (iii) The issued and outstanding Trust Units may be subdivided or consolidated from time to time by the Trustees without the prior approval of, or notice to, any Trust Unitholder, in accordance with this Declaration of Trust.
- (iv) No fractional Trust Units are to be issued and, notwithstanding anything to the contrary, none are to be considered outstanding at any time, except in the case of non-cash distributions of additional Trust Units to all Trust Unitholders pursuant to Section 5.6. If a Trust Unitholder is entitled to a fractional Trust Unit for any reason, the Trustees will adjust downward or upward the number of Trust Units held by that Trust Unitholder to the nearest whole number of Trust Units and will make such corresponding adjustments to any capital or current account of that Trust Unitholder, the applicable Register(s) and other records of the Trust to reflect such reduction. If the number of Trust Units issued and sold to the Investor is adjusted downward, no amount will be refunded to the Trust Unitholder in respect of any such adjustment.

3.2 Issue of Trust Units

- (a) The Trust may issue at any time and from time to time Trust Units in such number and on the terms and conditions of the offering, issue and sale of Trust Units as the Trustee(s), in their discretion, determine, including accepting payment of consideration therefor in the form of cash, property or past services, or a combination thereof (including, without limitation, as consideration for the acquisition of new properties), except that the terms and conditions governing the Trust Units are only as specified in this Declaration of Trust. Without limiting the generality of the foregoing:
 - (i) Trust Units may be issued by the Trust at the times, to the persons, for the consideration and on the terms and conditions that the Trustees determine, including pursuant to any Trust Unitholder rights plan, distribution reinvestment plan or any incentive option or other compensation plan established by the Trust; or
 - (ii) additional Trust Units or other securities of the Trust may be issued to one or more Trust Unitholders for the consideration and on the terms and conditions that the Trustees determine, at any time and from time to time, including pursuant to the reinvestment of distributions (whether or not a distribution reinvestment plan has been adopted) paid or to be paid to such Trust Unitholders
- (b) The Trustees may do all things necessary or advisable in connection with the Offering or other issue of Trust Units from time to time, including determining the requirements for a satisfactory subscription, preparing and filing Offering Documents and other documents pertaining to the distribution of Trust Units, paying the expenses of the Offering(s) and entering into agreements with any person for a commission or fee. Without limiting the generality of the foregoing:

- (i) the Trustees may authorize the Trust to pay commissions or may allow discounts to any person in consideration of such person purchasing or agreeing to purchase Trust Units or other securities issued by the Trust from the Trust or from any other person or procuring or agreeing to procure purchasers for Trust Units or other securities issued by the Trust, in each case whether absolutely or conditionally; or
 - (ii) the Trust may create and issue rights, warrants (including so-called "special warrants" or "subscription receipts" exercisable, convertible or exchangeable for no additional consideration), convertible securities or options (including all types of incentive programs) to subscribe for Trust Units which rights, warrants, convertible securities or options may be exercisable at such subscription price or prices and at such time or times as the Trustees may determine. The rights, warrants, convertible securities or options so created may be issued for such consideration or for no consideration, all as the Trustees may determine, provided that no right, warrant, convertible security or option as created and issued is a Trust Unit or carries any voting rights under this Declaration of Trust, and the holder thereof is not a Trust Unitholder and has no interest in the Trust Assets as a Trust Unitholders.
- (c) Trust Units may only be issued as and when fully paid in money, property, including indebtedness, or past services, and are not to be subject to future calls or assessments, except that Trust Units to be issued under an Offering may be issued for a consideration payable in instalments and the Trust may take a security interest over such Trust Units for unpaid instalments. In determining whether property or past services are the fair equivalent of consideration paid in money, the Trustees may take into account reasonable charges and expenses of organization and reorganization and payments for property and past services reasonably expected to benefit the Trust.
- (d) The Trustees may, in their sole discretion, refuse to accept a subscription for Trust Units. The Trustees may not offer and will not accept subscriptions for the issue and sale of a fraction of a Unit. The Trustees may require a subscriber to provide evidence reasonably satisfactory to it that such subscriber, or any person who would have a beneficial interest in the Trust Unit(s) being subscribed for, adequately meet the requirements determined by the Trustees, in their sole discretion, for a satisfactory subscription, including requirements under the Tax Act, applicable securities laws and this Declaration of Trust. If, for any reason, a subscription for Trust Units is not accepted, the Trustees will forthwith return to the subscriber any subscription monies or cheques representing subscription monies for such Trust Units without interest or deduction.
- (e) No person is entitled, as a matter of right, to subscribe for or purchase any Trust Unit.

3.3 Transfers

- (a) Subject to the provisions of this Article 3, the limitations, rights, privileges, restrictions, and conditions attached to the particular class or series of Trust Units, and applicable law (including applicable securities law), validly issued and outstanding Trust Units are fully transferable (whether by sale, assignment or transfer) as between persons. No transfer of Trust Units is effective as against the Trustees or is in any way binding upon the Trustees until the transfer has been recorded on the Register or one of the branch transfer registers maintained by the Trustees, the Trust or the Transfer Agent.

- (b) The classes of Trust Units that are listed or traded on any stock exchange or other public market are fully transferable in compliance with applicable laws. The classes of Trust Units that are not listed or traded on any stock exchange or other public market shall not be transferred except with the prior written consent of the Trustees, to be signified by a resolution of the Trustees subject always to compliance with applicable laws. Any attempted transfer (whether by sale, assignment or otherwise) of Trust Units in contravention of this Declaration of Trust is null and void and the Trustees will not approve any transfer of Trust Units in contravention of this Declaration of Trust. The Trustees are authorized to make such rules and regulations, in their discretion, may from time to time consider necessary or desirable in connection with the transfer (whether by sale, assignment or otherwise) of Trust Units.
- (c) Trust Units are transferable on the Register or a branch Register only by the Trust Unitholders of record thereof or their executors, administrators or other legal representatives or by their agents or attorneys duly authorized in writing, and only upon delivery to the Trust at its head office or to the Transfer Agent (if any) of the Trust Unit Certificate therefor, properly endorsed or accompanied by a duly executed instrument of transfer or power of attorney and accompanied by all necessary transfer or other taxes imposed by applicable law, together with such evidence of the genuineness of such endorsement, execution and authorization and other matters that may reasonably be required by the Trustees or the Transfer Agent, and no transfer of Trust Units is to be effective as against the Trustees or is to be in any way binding upon the Trustees until the transfer has been recorded on the Register or a branch Register maintained by the Trustees, the Trust or the Transfer Agent. Upon such deliveries, the transfer is to be recorded on the Register or a branch Register and: (i) the Trustees, upon request by the transferee of one or more Trust Units or otherwise in their discretion, will issue or cause to be issued a new Trust Unit Certificate (if any) for the Trust Units transferred; or (ii) in the case of a transfer of less than all of the Trust Units represented by a Trust Unit Certificate, the Trustees, upon request by the transferor or otherwise in their discretion, will issue or cause to be issued a new Trust Unit Certificate for the balance of the Trust Units retained by the transferor.
- (d) Trust Unitholders are not entitled to transfer (whether by sale, assignment or transfer) a fraction of a Trust Unit and none will be recognized or entered in the Register or a branch Register.
- (e) If the Trust Units are not listed or traded on any stock exchange or other public market, then no name or address of a Trust Unitholder is to be changed and no transfer (whether by sale, assignment or otherwise) of a Trust Unit or substitution or addition of a Trust Unitholder as a beneficiary of the Trust is to be recorded on the Register or a branch Register except pursuant to a written notice received by the Trustees.
- (f) For the purposes of this Declaration of Trust in respect of any Trust Unitholder that is not an individual, the legal or beneficial transfer (whether by sale, assignment or otherwise) of any of the shares, Trust Units, interests or other rights by or through which ownership or voting or other control is maintained or may be exercised in respect of such Trust Unitholder constitutes and is deemed to be a transfer of such holder's Trust Units hereunder if, as a result of any such transfer, the majority of the ownership interests of or the voting control (or both) of such Trust Unitholder would be changed from that in effect on the date that such person became a Trust Unitholder.
- (g) If:

- (i) a Trust Unitholder is a firm or a corporation, or a person that is not an individual and purports to transfer (whether by sale, assignment or otherwise) any Trust Unit;
- (ii) subject always to Subsection 3.3(k) and Section 3.12, a Trust Unitholder purports to transfer (whether by sale, assignment or otherwise) any Trust Unit in any representative capacity, or
- (iii) subject always to Subsection 3.3(k) and Section 3.12, a transfer (whether by sale, assignment or otherwise) of a Trust Unit results from the death, mental incapacity or bankruptcy of a Trust Unitholder or is otherwise involuntary,

the transferor or his, her or its legal representative must, in order to validly effect the transfer of such Trust Unit, furnish to the Trustees such documents, certificates, assurances, court orders and other instruments as the Trustees may reasonably require.

- (h) None of the Trustees of the Trust, the officers of the Trust, the Trust Unitholders or any Transfer Agent or other agent of the Trust or the Trustees shall have a duty to inquire into any claim that a transfer of a Unit or other security of the Trust was or would be wrongful or that a particular adverse person is the owner of or has an interest in the Unit or other security or any other adverse claim, or be bound to see to the performance of any trust, express, implied or constructive, or of any charge, pledge or equity to which any of the Units or other securities or any interest therein are or may be subject, or to ascertain or inquire whether any sale or transfer of any such Units or other securities or interest therein by any such Trust Unitholder or holder of such security or his personal representatives is authorized by such trust, charge, pledge or equity, or to recognize any person as having any interest therein, except for the person recorded as Trust Unitholder
- (i) No Trust Unitholder may transfer (whether by sale, assignment or otherwise) Trust Units and none of the Trust, the Trustees, or the Trust Unitholders will recognize a transfer (whether by sale, assignment or otherwise) or permit same to be entered into the Register after the termination of the Trust.
- (j) A transferee of Trust Units transferred (whether by sale, assignment or otherwise) in accordance with this Declaration of Trust is automatically bound as a Trust Unitholder by this Declaration of Trust without execution of further instruments, except as required by law or as set forth herein.
- (k) Any person becoming entitled to Trust Units as a consequence of the death, bankruptcy or mental incompetence of any Trust Unitholder, or otherwise by operation of applicable law, and subject always to Section 3.12, is to be recorded as the Trust Unitholder of such Trust Units and is entitled to receive a new Trust Unit Certificate therefore only upon submission of the existing Trust Unit Certificate for cancellation and production of satisfactory evidence, but until such record is made in the Register, the Trust Unitholder of record continues to be and is deemed to be the Trust Unitholder of such Trust Units for all purposes whether or not notice of such death or other event has been given.
- (l) If:
 - (i) a Trust Unitholder proposes to transfer Trust Units or otherwise affect the identification of such Trust Unitholder shown on the Register; and

- (ii) the Trustees determine that the proposed transfer or change on the Register would result in the Trust not qualifying as a “mutual fund trust” for the purposes of the Tax Act or that such a situation is foreseeable or imminent,

the Trustees may, or may direct any Administrator or the Transfer Agent or other registrar to, refuse to register the transfer or otherwise change the Register (or any branch register) unless and until the Trustees are satisfied, acting reasonably and in good faith, that the Trust will qualify as a “mutual fund trust” for the purposes of the Tax Act. The Trustees have the sole right and authority to make any determination required or contemplated under this Subsection. The Trustees shall make all determinations necessary for the administration of the provisions of this Subsection and, without limiting the generality of the foregoing, if the Trustees consider that there are reasonable grounds for believing that the Trust would not qualify as a “mutual fund trust” for the purposes of the Tax Act then the Trustees shall make a determination with respect to the matter. Any such determination is conclusive, final and binding except to the extent modified by any subsequent determination by the Trustees. Notwithstanding the foregoing, the Trustees may delegate, in whole or in part, their power to make a determination in this respect to any officer of the Trust or a committee of the Trustees.

3.4 Non-Certificated Inventory System

- (a) The provisions of this Section 3.4 shall not in any way alter the nature of Trust Units or the relationships of a Trust Unitholder to the Trustees and of one Trust Unitholder to another but are intended only to facilitate the recording of all transactions in respect of Trust Units whether by the Trust, securities dealers, stock exchanges, transfer agents, registrars or other persons.
- (b) Except as otherwise provided below, registration of interests in and transfers of Trust Units held through CDS, or its nominee, will be made electronically through the NCI system of CDS. Upon Closing, the Trust, via its Transfer Agent, will electronically deliver the Trust Units registered to CDS or its nominee, and CDS will credit interests in such Trust Units to the accounts of the applicable CDS Participants. Trust Units held in CDS will be purchased, transferred and surrendered for redemption through a CDS Participant. All rights of beneficial Trust Unitholders who hold Trust Units in CDS must be exercised through, and all payments or other property to which such beneficial Trust Unitholders are entitled will be made or delivered by CDS or the CDS Participant through which the beneficial Trust Unitholder holds such Trust Units. A beneficial holder of a Trust Unit participating in the NCI system will not be entitled to a certificate or other instrument from the Trust or the Transfer Agent evidencing that person’s interest in or ownership of Trust Units, nor, to the extent applicable, will such beneficial Trust Unitholder be shown on the records maintained by CDS, except through an agent who is a CDS Participant.
- (c) Except as described below, no purchaser of a Trust Unit will be entitled to a certificate or other instrument from the Trust evidencing that purchaser’s ownership thereof, and no holder of a beneficial interest in a Trust Unit (a “**Beneficial Owner**”) will be shown on the records maintained by CDS except through the accounts of CDS Participants acting on behalf of the Beneficial Owners. CDS will be responsible for establishing and maintaining accounts for CDS Participants having interests in the Trust Units, and sales of interests in the Trust Units can only be completed through CDS Participants.
- (d) Trust Units may be issued in fully registered form to holders or their nominees, if any, who purchase the Trust Units pursuant to a private placement of Trust Units made in reliance upon

Rule 144A (or other registration exemption) adopted under the Trust United States Securities Act of 1933, and to transferees thereof in the Trust United States who purchase such Trust Units in reliance upon Rule 144A (or other registration exemption). Likewise, any Trust Units transferred to a transferee within the Trust United States or outside the Trust United States to a "U.S. Person" (within the meaning of Regulation S) may be evidenced in definitive certificates representing any such Trust Units unless the Trust otherwise agrees that such Trust Units need not be evidenced in definitive certificates. If any such Trust Units represented by definitive certificates are subsequently traded into Canada, or otherwise outside the Trust United States in compliance with Regulation S, the Transfer Agent will electronically deliver such Trust Units registered to CDS or its nominee, and CDS will credit interests in such Trust Units to the accounts of the CDS Participants as directed by the Transfer Agent.

- (e) Except as noted in the foregoing paragraph, Trust Units will be issued in fully registered form to holders or their nominees, other than CDS or its nominee, only if: (i) the Trust is required to do so by applicable law; (ii) the depository system of CDS ceases to exist; (iii) the Trust determines that CDS is no longer willing, able or qualified to discharge properly its responsibility as depository and the Trust is unable to locate a qualified successor; (iv) the Trust at its option elects to prepare and deliver definitive certificates representing the Trust Units; or (v) the Trust at its option elects to terminate the NCI system in respect of the Trust Units through CDS.
- (f) All references herein to actions by, notices given or payments made to Trust Unitholders shall, where such Trust Units are held through CDS, refer to actions taken by, or notices given or payments made to, CDS upon instruction from the CDS Participants in accordance with CDS's rules and procedures. For the purposes of any provision hereof requiring or permitting actions with the consent of or at the direction of Trust Unitholders evidencing a specified percentage of the aggregate Trust Units outstanding, such direction or consent may be given by Trust Unitholders acting through CDS and the CDS Participants owning Trust Units evidencing the requisite percentage of the Trust Units. The rights of a Trust Unitholder whose Trust Units are held through CDS shall be exercised only through CDS and the CDS Participants and shall be limited to those established by law and agreements between such Trust Unitholders and CDS and/or the CDS Participants or upon instruction from the CDS Participants. Each of the Transfer Agent and the Trustees may deal with CDS for all purposes (including the making of payments) as the authorized representative of the respective Trust Unitholders and such dealing with CDS shall constitute satisfaction or performance, as applicable, towards their respective obligations hereunder.
- (g) For so long as Trust Units are held through CDS, if any notice or other communication is required to be given to Trust Unitholders, the Trustees and the Transfer Agent will give all such notices and communications to CDS.
- (h) If CDS resigns or is removed from its responsibilities as depository and the Trustees are unable or do not wish to locate a qualified successor, CDS shall surrender the Trust Units held by it to the Transfer Agent with instructions from CDS for registration of Trust Units in the name and in the amounts specified by CDS and the Trust shall issue and the Trustee and Transfer Agent shall execute and deliver the aggregate number of Trust Units then outstanding in the form of definitive Trust Unit Certificates representing such Trust Units.

3.5 Registers

(a) The Trustees will:

- (i) maintain and update, either directly or indirectly, the Register at the principal business office of the Trust; or
- (ii) where the Trust has appointed or retained a Transfer Agent for any class or series of Trust Units, cause the Register to be maintained and updated at the principal stock transfer offices in Calgary, Alberta of the Transfer Agent,

which Register, to be valid for the purposes of this Declaration of Trust, must contain the names and addresses of the Trust Unitholders, the class and series and respective amounts of Trust Units held by the Trust Unitholders, the dates of issue and certificate numbers of the Trust Unit Certificates (if any) representing such Trust Units, and a record of all transfers and redemptions thereof.

- (b) Branch Registers may be maintained at such other locations and by such other persons as the Trustee(s) may from time to time designate, including, where the Trust has appointed or retained a Transfer Agent for any class or series of Trust Units, one or more branch offices of the Transfer Agent.
- (c) Only Trust Unitholders whose Trust Units are recorded in the Register are to be entitled to receive distributions or to exercise or enjoy the rights of Trust Unitholders hereunder.
- (d) The Trustees may and are entitled to treat the person registered as a Trust Unitholder on the Register as the owner of such Trust Units for all purposes, including payment of any distribution, giving notice to Trust Unitholders and determining the right to attend and vote at meetings of Trust Unitholders.
- (e) The Trustees may and are entitled to make such rules and regulations as the Trustee(s), in his or their discretion, may from time to time consider necessary or desirable in connection with the foregoing, including the form and content of the Register, the times when the Register may be closed, the establishment of record dates and the documentation required to record transfers (whether by sale, assignment or otherwise) of Trust Units and other matters.

3.6 Consolidation of Trust Units

- (a) Unless the Trustees determine otherwise, and subject to all necessary regulatory approvals, immediately after any pro rata distribution of additional Trust Units to all holders of Trust Units pursuant to Section 5.7, the number of the outstanding Trust Units is hereby automatically consolidated so that each Trust Unitholder holds after the consolidation the same number of Trust Units as such Trust Unitholder held before the distribution of additional Trust Units. In this case, each Trust Unit Certificate represents and is deemed to represent the same number of Trust Units after the non-cash distribution of additional Trust Units and the consolidation pursuant to this Section as the certificate represented prior to the non-cash distribution of additional Trust Units.
- (b) No consolidation of Trust Units pursuant to this Section constitutes a redemption or cancellation of Trust Units so consolidated and no Trust Unitholder whose Trust Units are consolidated will

receive, and such Trust Unitholder is not entitled to receive, any proceeds of disposition in respect thereof.

- (c) Notwithstanding the foregoing, where tax is required to be withheld in respect of a Trust Unitholder's share of the distribution, the Trust shall withhold from the cash portion of such distribution, if any, or the Trust Unitholder shall make a cash payment to the Trust, of an amount equal to the amount of tax required to be remitted to the appropriate taxation authority by the Trust, or, if such withholding cannot be made by the Trust or such payment is not made by the Trust Unitholder: (a) the consolidation of the Trust Units held by such Trust Unitholder will result in such Trust Unitholder holding that number of Trust Units equal to the number of Trust Units held by such Trust Unitholder prior to the distribution minus the number of Trust Units withheld by the Trust on account of withholding taxes payable by the Trust Unitholder in respect of the distribution; and (b) the consolidation shall not apply to any Trust Units so withheld. Any Trust Units so withheld shall either be delivered to the appropriate taxation authority or sold, in which case the net proceeds are to be remitted to the appropriate taxation authority. Such Trust Unitholder will be required to surrender the Trust Unit Certificates, if any, representing such Trust Unitholder's original Trust Units, in exchange for a Trust Unit Certificate representing such Trust Unitholder's post-consolidation Trust Units other than the withheld Trust Units.

3.7 Certificate Fee

The Trustees may establish a reasonable fee to be charged for any Trust Unit Certificate or other certificate issued evidencing the ownership of Trust Units or other securities of the Trust.

3.8 Form of Certificate

If the Trust determines it will use Trust Unit Certificates, the form of Trust Unit Certificate representing Trust Units shall be in such form as is from time to time authorized by the Trustees. Signatures of Trustees or officers of the Trust required on Trust Unit Certificates may be printed or otherwise mechanically reproduced thereon. If a Trust Unit Certificate contains a printed or mechanically reproduced signature of a person, the Trust may issue the Trust Unit Certificate even though the person has ceased to be a Trustee or an officer of the Trust and such Trust Unit Certificate is as valid as if the person were a Trustee or an officer at the date of its issue.

3.9 Lost Certificates

If a Trust Unit is represented by a Trust Unit Certificate and such Trust Unit Certificate is lost, stolen, destroyed or mutilated, the Trustees will, upon request by a Trust Unitholder, issue a replacement Trust Unit Certificate to the Trust Unitholder for the same number and series of Trust Units in lieu thereof upon receiving: (i) evidence satisfactory to the Trustees of such loss, mutilation or destruction; and (ii) such indemnification (including an indemnity bond provided at the expense of the Trust Unitholder) as it deems appropriate in the circumstances. Without limiting the generality of the foregoing, Trustees may, in their sole discretion, before the issuance of such replacement Trust Unit Certificate, require the Trust Unitholder in respect of the lost, stolen, destroyed or mutilated certificate, or the personal or legal representative thereof, to make an affidavit or statutory declaration setting forth such facts as to the loss, theft, destruction or mutilation as the Trustees may deem necessary, to surrender any mutilated certificate and may require the applicant to supply to the Trust a "lost certificate bond" or a similar bond in such reasonable sum as the Trustees or the Transfer Agent may direct indemnifying the Trust or the Transfer Agent (or both) for so doing.

3.10 Trust Units Held Jointly or in a Fiduciary Capacity

Except as herein provided, the Trustees may treat two or more persons holding any Trust Units as joint owners of the entire interest therein unless their ownership is expressly otherwise recorded on the register of the Trust, but no entry is to be made in the Register or on any certificate that any person is in any other manner entitled to any future, limited or contingent interest in any Trust Units; provided, however, that any person recorded as a Trust Unitholder may, subject to the provisions hereinafter contained, be described in the Register or on any certificate as a fiduciary of any kind and any customary words may be added to the description of the holder to identify the nature of such fiduciary relationship.

3.11 Performance of Trusts

No Trustee or Transfer Agent, if any, is bound to be responsible for or otherwise required to inquire into or ensure the performance of any trust, express, implied or constructive, or any pledge or equity to which any of the Trust Units or any interest therein are or may be subject, or to ascertain or enquire whether any transfer of any such Trust Units or interests therein by any such Trust Unitholder or by his or her personal representatives is authorized by such trust, pledge, or equity, or to recognize any person as having any interest therein except for the person recorded as Trust Unitholder.

3.12 Death of a Trust Unitholder

The death or disability of a Trust Unitholder during the continuance of the Trust does not terminate the Trust or any of the mutual or respective rights and obligations created by or arising under this Declaration of Trust and does not give such Trust Unitholder's personal representatives a right to an accounting or take any action in court or otherwise against other Trust Unitholders or the Trustees or the Trust Assets, but merely entitles the personal representatives of the deceased Trust Unitholder to demand and receive, pursuant to the provisions hereof, a new certificate for Trust Units in place of the certificate held by the deceased Trust Unitholder, if any, and upon the acceptance thereof such personal representatives succeeds to all rights of the deceased Trust Unitholder under this Declaration of Trust.

3.13 Purchase of Trust Unit held by Settlor

After the Date of Formation, and in conjunction with the first Closing of the Offering at which Trust Units are first issued and sold (other than the issue and sale of any Trust Units to the Settlor), the Trust will purchase the initial Trust Unit from the Settlor, and the Settlor will sell the initial Trust Unit to the Trust, for a purchase price equal to the Initial Contribution and, upon the completion of such purchase and sale, the initial Trust Unit is to be cancelled and is no longer outstanding for any of the purposes of this Declaration of Trust.

3.14 Non-Resident Ownership Constraint

- (a) Notwithstanding any provision of this Declaration of Trust to the contrary, at no time may more than 49% of the Trust Units then outstanding be held by or for the benefit of Non-Residents and the Trustees will inform the Transfer Agent of this restriction. The Trustees may require a registered holder of Trust Units to provide the Trustees with a declaration as to the jurisdictions in which beneficial owners of Trust Units are resident and as to whether such beneficial owners are Non-Residents. If the Trustees become aware, as a result of acquiring such declarations as to beneficial ownership or as a result of any other investigations, that more than 49% of the Trust Units then outstanding are, or may be, held by or for the benefit of Non-Residents or that such a

situation is imminent, the Trustees may make a public announcement thereof and the Transfer Agent shall not accept a subscription for Trust Units from, or issue or register a transfer of Trust Units to, a person or partnership unless the person or partnership provides a declaration in form and content satisfactory to the Trustees that the person is not a Non- Resident and does not hold such Trust Units for the benefit of Non-Residents.

- (b) If, notwithstanding the foregoing, the Trustees determine that more than 49% of the Trust Units then outstanding are held by Non-Residents, the Trustees may send a notice to such Non-Resident holders of Trust Units chosen in inverse order to the order of acquisition or registration or in such other manner as the Trustees may consider equitable and practicable, requiring them to sell their Trust Units or a portion thereof within a specified period of not more than 30 days. If the securityholders receiving such notice have not sold the specified number of Trust Units or provided the Trustees with satisfactory evidence that they are not Non-Residents within such period, the Trustees may, on behalf of such securityholders sell such Trust Units without further notice and, in the interim, shall suspend the voting and distribution rights attached to such Trust Units (other than the right to receive the net proceeds from the sale). Upon such sale or conversion, the affected holders shall cease to be holders of the relevant Trust Units and their rights shall be limited to receiving the net proceeds of sale, upon surrender of the certificates, if any, representing such Trust Units. The Trustees shall have no liability in respect of such sales provided that they act in good faith. The Trust may direct its Transfer Agent to do any of the foregoing.
- (c) The Trustees shall have the sole right and authority to make any determination required or contemplated under this Section 3.14. The Trustees shall make all determinations necessary for the administration of the provisions of this Section 3.14 and, without limiting the generality of the foregoing, if the Trustees consider that there are reasonable grounds for believing that a contravention of the Non-Resident ownership restriction has occurred or will occur, the Trustees shall make a determination with respect to the matter. Any such determination shall be conclusive, final and binding except to the extent modified by any subsequent determination by the Trustees. Notwithstanding the foregoing, the Trustees may delegate, in whole or in part, their power to make a determination to any officer of the Trust.
- (d) Notwithstanding the foregoing, the Trustees may determine not to take any of the actions described above if the Trustees have been advised by legal counsel that the failure to take any of such actions would not adversely impact the status of the Trust as a “mutual fund trust” for purposes of the Tax Act or, alternatively, may take such other action or actions as may be necessary to maintain the status of the Trust as a “mutual fund trust” for purposes of the Tax Act.

ARTICLE 4

INVESTMENT GUIDELINES, OPERATING POLICIES AND REGULATIONS

4.1 Investment Guidelines – Closed Ended Trust

Notwithstanding any other provision hereof, during the period that the Trust is a Closed Ended Trust, it is intended that the Trust shall qualify as a “unit trust” pursuant to paragraph 108(2)(b) of the Tax Act and, in furtherance thereof, the Trust shall only invest in, acquire or hold:

- (a) bonds, debentures, mortgages, hypothecary claims, notes or other similar obligations issued by the Government of Canada, any province of Canada or a Canadian municipality; and

- (b) cash in Canadian dollars.

4.2 Investment Guidelines – Open Ended Trust

After the conversion of the Trust to an Open Ended Trust, the Trust shall no longer be required to comply with the investment guidelines provided for in Section 4.1 hereof and instead shall comply with the investment guidelines provided for in this Section 4.2.

Notwithstanding any other provision hereof, from and after the time that the Trust becomes an Open Ended Trust, the assets of the Trust may be invested only with the approval of the Trustees and only in accordance with the following restrictions:

- (a) the Trust may acquire, invest, hold, transfer, dispose of and otherwise deal with securities of whatever nature or kind (other than a general partnership interest) of, or issued by any other corporation, partnership, trust or other person involved in the business of acquiring, holding, maintaining, improving or investing in real property, and such other investments as the Trustees may determine, from time to time;
- (b) notwithstanding anything else contained in this Declaration of Trust, once the Trust qualifies as a “mutual fund trust” for the purposes of the Tax Act, as more particularly described in Section 2.12 hereof, the Trust shall not make any investment, take any action or omit to take any action that would result in Trust not being a “mutual fund trust” for the purposes of the Tax Act or that would result in the Trust Units not being qualified investments for Exempt Plans;
- (c) the Trustees shall use their reasonable commercial efforts to operate the Trust and restrict its investment and activities to ensure that the Trust is not a SIFT Trust for the purposes of the Tax Act, including restrictions set forth in Section 2.13 hereof;
- (d) the Trust shall not invest in any interest in a single investment, if, after giving effect to the proposed investment, the cost to the Trust of such investment (net of the amount of debt incurred or assumed in connection with such investment and excluding investment by any joint venture partner) will exceed 20% of Gross Book Value at the time the investment is made;
- (e) the Trust may, directly or indirectly, invest in a joint venture arrangement for the purposes of owning interests or investments otherwise permitted to be held by the Trust; provided that such joint venture arrangement contains terms and conditions which, in the opinion of the Trustees, are commercially reasonable, including without limitation such terms and conditions relating to restrictions on the transfer, acquisition and sale of the Trust’s and any joint venturer’s interest in the joint venture arrangement, provisions to provide liquidity to the Trust, provisions to limit the liability of the Trust and its Trust Unitholders to third parties, and provisions to provide for the participation of the Trust in the management of the joint venture arrangement. For the purposes hereof, a “joint venture arrangement” is an arrangement between the Trust and one or more other persons pursuant to which the Trust, directly or indirectly, conducts an undertaking for one or more of the purposes set out in the investment guidelines of the Trust and in respect of which the Trust may hold its interest jointly or in common or in another manner with others either directly or through the ownership of securities of a corporation or other entity;
- (f) the Trust shall not invest in rights to or interests in mineral or other natural resources, including oil or gas, except as incidental to an investment in real property;

- (g) the Trust may invest in mortgages and mortgage bonds (including participating or convertible mortgages) and similar instruments where:
 - (i) the real property which is security for such mortgages and similar instruments is income producing real property which otherwise meets the other investment guidelines of the Trust; and
 - (ii) the aggregate book value of the investments of the Trust in mortgages, after giving effect to the proposed investment, will not exceed 15% of Gross Book Value; and
- (h) the Trust may invest an amount (which, in the case of an amount invested to acquire real property, is the purchase price less the amount of any debt incurred or assumed in connection with such investment) up to 10% of the Gross Book Value of the Trust in investments which do not comply with one or more of paragraphs (a), (d), (e), and (f).

For the purpose of the foregoing restrictions (other than Subsections 4.2(a) to (c)), the assets, liabilities and transactions of a corporation or other entity wholly or partially-owned by the Trust will be deemed to be those of the Trust on a proportionate consolidation basis. In addition, any references in the foregoing to investment in real property will be deemed to include an investment in a joint venture arrangement that invests in real property.

4.3 Operating Policies

The operations and affairs of the Trust are to be conducted in accordance with the following policies:

- (a) the Trust shall not purchase, sell, market or trade in currency or interest rate futures contracts otherwise than for hedging purposes where, for the purposes hereof, the term "hedging" has the meaning ascribed thereto by National Instrument 81-102 – *Mutual Funds* adopted by the Canadian Securities Administrators, as replaced or amended from time to time;
- (b)
 - (i) any written instrument creating or including an obligation on the Trust to grant a mortgage; and
 - (ii) to the extent practicable, any written instrument which in the judgment of the Trustees (exercised in accordance with their fiduciary duties to act in the best interest of the Trust Unitholders) creates a material obligation of the Trust, must, in each case, contain a provision, or be subject to an acknowledgement to the effect, that the obligation being created is not personally binding upon, and that resort must not be had to, nor will recourse or satisfaction be sought from, by lawsuit or otherwise, the private property of any of the Trustees, Trust Unitholders, annuitants under a plan of which a Trust Unitholder acts as a trustee or carrier, or officers, employees or agents of the Trust, but that only property of the Trust or a specific portion thereof is bound; the Trust, however, is not required, but must use all reasonable efforts, to comply with this requirement in respect of obligations assumed by the Trust upon the acquisition of real property;
- (c) if the Trust makes investments in real property, title to each real property shall be held by and registered in the name of a corporation or other entity wholly-owned, directly or indirectly, by the Trust or jointly-owned, directly or indirectly, by the Trust, with joint venturers; provided, that where land tenure will not provide fee simple title, a corporation or other entity wholly-owned, directly or indirectly, by the Trust or jointly owned, directly or indirectly, by the Trust shall hold a land lease as appropriate under the land tenure system in the relevant jurisdiction;

- (d) the Trust shall not directly or indirectly guarantee any indebtedness or liabilities of any kind of a third party, except indebtedness or liabilities assumed or incurred by an entity in which the Trust holds an interest, directly or indirectly, or by an entity jointly owned by the Trust with joint venturers and operated solely for the purpose of holding a particular investment, where such indebtedness, if granted by the Trust directly, would cause the Trust to contravene its investment guidelines or operating policies. The Trust is not required but shall use its reasonable best efforts to comply with this requirement: (i) in respect of obligations assumed by the Trust pursuant to the acquisition of an investment; or (ii) if doing so is necessary or desirable in order to further the initiatives of the Trust permitted under this Declaration of Trust; and
- (e) the Trust shall directly or indirectly obtain and maintain at all times property insurance coverage in respect of potential liabilities of the Trust and the accidental loss of value of the assets of the Trust from risks, in amounts, with such insurers, and on such terms as the Trustees consider appropriate, taking into account all relevant factors including the practice of owners of comparable properties.

4.4 Amendments to Investment Guidelines and Operating Policies

- (a) Prior to, or concurrently with, the later of the first Closing of the Offering at which Trust Units are first issued and sold, other than the issue and sale of Trust Units to the Settlor or the effective time of the Qualifying Transaction, the Trustees may amend the investment guidelines and operating policies herein without Trust Unitholder approval, including to amend or delete the investment guidelines and operating procedures herein or to adopt additional investment guidelines and operating policies as may be desired or required in connection with the Qualifying Transaction, the Offering or other offerings of securities, or to cause the Trust's investment guidelines and operating procedures to accord with market conditions or the customary provisions of similar issuers or otherwise.
- (b) Following the Qualifying Transaction (subject to any amendments on or prior thereto), then all of the investment guidelines set out in Section 4.2 and the operating policies contained in Subsections 4.3(a), 4.3(d) and 4.3(e) may be amended only with approval by a Special Resolution. The remaining operating policies may be amended with the approval by an Ordinary Resolution.

4.5 Trustees' Regulations

The Trustees shall have the power to prescribe any form provided for or contemplated by this Declaration of Trust. The Trustees may make, adopt, amend, or repeal regulations containing provisions relating to the Trust, the conduct of its affairs, the rights or powers of the Trustees and the rights or powers of the Trust Unitholders or officers, provided that such regulations shall not be inconsistent with law or with this Declaration of Trust and not, in the opinion of the Trustees, prejudicial to Unitholders. The Trustees shall also be entitled to make any reasonable decisions, designations or determinations not inconsistent with law or with this Declaration of Trust which they may determine are necessary or desirable in interpreting, applying or administering this Declaration of Trust or in administering, managing or operating the Trust. To the extent of any inconsistency between this Declaration of Trust and any regulation, decision, designation or determination made by the Trustees, this Declaration of Trust shall prevail and such regulation, decision, designation or determination shall be deemed to be modified to eliminate such inconsistency. Any regulations, decisions, designations or determinations made in accordance with this Section 4.5, including, without limiting the generality of the foregoing, whether any

particular investment or disposition meets the requirements of this Declaration of Trust, shall be conclusive and binding upon all persons affected thereby (including any Unitholder that is a registered retirement savings plan, registered retirement income fund, deferred profit sharing plan or registered pension fund or plan as defined in the Tax Act, or other similar fund or plan registered under the Tax Act, upon plan beneficiaries and plan holders past, present and future).

Subject to any agreement between the Trust and any Trustee and subject as otherwise herein provided, the Trustees may from time to time in their discretion appoint, employ, invest in, contract or deal with any person including any affiliate of any of them and any person in which any one or more of them may be directly or indirectly interested and, without limiting the generality of the foregoing, any Trustee may purchase, hold, sell, invest in or otherwise deal with real property or other property of the same class and nature as may be held by the Trustees as property of the Trust, whether for the Trustee's own account or for the account of another (in a fiduciary capacity or otherwise), without being liable to account therefor and without being in breach of his duties and responsibilities hereunder.

ARTICLE 5 DISTRIBUTIONS

5.1 Distributable Cash

The "**Distributable Cash**" for, or in respect of, a Distribution Period is equal to such amount, if any, as determined by the Trustees in their discretion.

5.2 Distributions of Distributable Cash

- (a) The Trustees or an Administrator (if so authorized by the Trustees) may in its discretion, in respect of each Distribution Period, on or before each Distribution Record Date, declare payable to Trust Unitholders at the close of business on such Distribution Record Date all or any part of the Distributable Cash for the Distribution Period determined by the Trustees to be available for distribution by the Trust for such Distribution Period. Any such distribution is payable to each Trust Unitholder of record on the applicable Distribution Record Date based on the proportionate share thereof attributable to each Trust Unit issued and outstanding as of the Distribution Record Date, subject to Subsection 5.2(b). For greater certainty, a Trust Unitholder has the legal right to enforce payment at the time that any such distribution is made payable on the applicable Distribution Record Date, which in the case of the final Distribution Period in each Taxation Year shall be on or before December 31 of that Taxation Year.
- (b) Subject to Sections 5.5 and 5.6, Distributable Cash that has been declared to be payable to Trust Unitholders in respect of a Distribution Period is to be paid in cash on the Distribution Payment Date for such Distribution Period.

5.3 Other Distributions and Allocations

- (a) In addition to the distributions which are made payable to Trust Unitholders pursuant to Section 5.2, the Trustees may allocate, declare to be payable and make distributions to Trust Unitholders, from time to time, out of Income of the Trust, Net Realized Capital Gains, the capital of the Trust or otherwise, in any year, in such amount or amounts, and on such dates, as the Trustees may determine. The Trustees shall declare any distribution to Trust Unitholders payable on or prior to the applicable Distribution Record Date, provided that distributions made in respect of the final

Distribution Period in any Taxation Year shall be made payable on or before December 31 of that Taxation Year. For greater certainty, a Trust Unitholder has the legal right to enforce payment at the time a distribution is made payable on the applicable Distribution Record Date, which in the case of the final Distribution Period in each Taxation Year shall be on or before December 31 of that Taxation Year.

- (b) The Trustees may adopt a distribution policy pursuant to which distributions will be made by the Trust to Trust Unitholders, and the Trustees may amend or revoke such distribution policy from time to time. Provided that the Trust is not a SIFT Trust, the Trust intends to deduct such amounts that the Trustees paid or declared payable to the Trust Unitholders in the Taxation Year as is necessary to reduce or eliminate the Trust's liability for income tax under Part I of the Tax Act in the Taxation Year to the maximum extent possible. The Trustees, if they so determine when income has been accrued but not collected may, on a temporary basis, transfer sufficient moneys from the capital to the income account of the Trust to permit distributions under this Section 5.3.
- (c) The proportionate share of each Trust Unit outstanding of the amount of any distribution made pursuant to Section 5.3(a) is to be determined by dividing such amount by the number of issued and outstanding Trust Units on the applicable record date in respect of a distribution pursuant to Section 5.3(a). The share of each Trust Unitholder of the amount of any such distribution is to be an amount equal to the proportionate share of each Trust Unit outstanding of such amount multiplied by the number of Trust Units outstanding owned of record by each such Trust Unitholder on such applicable Distribution Record Date. Subject to Section 5.4, amounts which have been declared to be payable to Trust Unitholders pursuant to Section 5.3(a) are to be paid in cash on the Distribution Payment Date which immediately follows the applicable Distribution Record Date.
- (d) Subject to Subsection 5.3(c), each Trust Unitholder's share of any such allocation, distribution or advance pursuant to Subsection 5.3(a) is an amount equal to the proportionate share of such distribution for each Trust Unit multiplied by the number of Trust Units owned of record by each such Trust Unitholder on the applicable Distribution Record Date.
- (e) In addition to the distributions which are made payable to Trust Unitholders, the Trustees may make payable and designate any capital gain realized by the Trust as a result of the redemption of Trust Units pursuant to Article 6 to the redeeming Trust Unitholders in accordance with the provisions thereof.

5.4 Character of Distributions and Designations

In accordance with and to the extent permitted by the Tax Act and analogous provisions of any applicable provincial income tax legislation, the Trustees will, in each year, make designations in respect of the amounts payable to Trust Unitholders for such amounts that the Trustees consider to be reasonable in the circumstances, including designations relating to dividends received, net taxable capital gains and foreign source income of and foreign taxes paid by the Trust for the year, and may make designations under Sections 104(13.1) or (13.2) of the Tax Act that income be taxed to the Trust rather than to the Trust Unitholders. Distributions payable to Trust Unitholders pursuant to this Article 5 are deemed to be distributions of Income of the Trust, Net Realized Capital Gains, trust capital or other items in such amounts as the Trustees, in their sole discretion, determine. For greater certainty, it is hereby

declared that any distribution of Net Realized Capital Gains includes the non-taxable portion of the capital gains of the Trust that are encompassed in such distribution.

5.5 Payments to Trust Unitholders

- (a) Any cash payment required hereunder to be made to a Trust Unitholder is to be paid by cheque or bank draft to the order of the registered Trust Unitholder and may be mailed by ordinary mail to the last address appearing on the books of the Trust but may also be paid in such other manner as the Trust Unitholder has designated to the Trustees and the Trustees have accepted. In the case of joint registered Trust Unitholders, any cash payment required hereunder to be made to a Trust Unitholder is deemed to be required to be made to such Trust Unitholders jointly and is to be paid by cheque or bank draft but may also be paid in such other manner as the jointly registered Trust Unitholders or any one of the jointly registered Trust Unitholders has designated to the Trustees and the Trustees have accepted. For greater certainty, a Trust Unitholder or any one of the joint Trust Unitholders may designate and the Trustees may accept that any payment required to be made hereunder is to be made by deposit to an account of such Trust Unitholder or to a joint account of such Trust Unitholder and any other person or, in the case of jointly registered Trust Unitholders, to an account of jointly registered Trust Unitholders or to an account of any one of the joint registered Trust Unitholders. A cheque or bank draft is, unless the jointly registered Trust Unitholders otherwise direct, to be made payable to the order of all of the said joint registered Trust Unitholders, and if more than one address appears on the books of the Trust in respect of such joint unitholding, the cheque or bank draft or payment in other acceptable manner as aforesaid satisfies and discharges all liability of the Trustees or the Trust for the amount so required to be paid unless the cheque or bank draft is not paid at par on presentation at any place where it is by its terms payable. In the event of non-receipt of any such cheque or bank draft by the person to whom it was mailed, the Trustees, on proof of the non-receipt and upon satisfactory indemnity being given to it and to the Trust, shall issue to the person a replacement cheque or bank draft.
- (b) The receipt of any payment not mailed or paid in another acceptable manner in accordance with this Section 5.5 by the registered Trust Unitholder is a valid and binding discharge to the Trust and to the Trustees for any payment made in respect of the registered Trust Units and if several persons are jointly registered Trust Unitholders or, in consequence of the death, bankruptcy or incapacity of a Trust Unitholder, one or several persons are entitled so to be registered in accordance with this Declaration of Trust, respectively, receipt of payment by any one of them is a valid and binding discharge to the Trust and to the Trustees for any such payment.

5.6 Non-Cash Payment of Distributions

- (a) If the Trustees determine that the Trust does not have cash in an amount sufficient to make payment of the full amount of any distribution, the payment may include or consist entirely of the issuance of additional Trust Units, or fractions of Trust Units, having a value equal to the difference between the amount of such distribution and the amount of cash which has been determined by the Trustees to be available for the payment of such distribution.
- (b) The value of each Trust Unit which is issued pursuant to Subsection 5.6(a) is to be the closing market price (as defined in Section 6.3) of the Trust Units on the applicable Distribution Record Date in respect of a distribution pursuant to Section 5.2, on the applicable Distribution Record Date in respect of a distribution under Section 5.3(a), or December 31 in respect of a distribution

under Section 5.3(b), provided that if the particular date is not a Business Day then the closing market price is to be determined on the last Business Day which precedes such particular date and provided further that if there is no closing market price for the Trust Units, then the value of each Trust Unit which is issued pursuant to Subsection 5.6(a) is to be the fair market value thereof as determined by the Trustees in their discretion.

- (c) Such additional Trust Units are to be issued pursuant to applicable exemptions under applicable securities laws, discretionary exemptions granted by applicable securities regulatory authorities or a prospectus or similar filing.

5.7 Consolidation of Trust Units

- (a) Unless the Trustees determine otherwise, and subject to all necessary regulatory approvals, immediately after any pro rata distribution of additional Trust Units to all holders of Trust Units pursuant to Section 5.6, the number of the outstanding Trust Units is hereby automatically consolidated so that each Trust Unitholder holds after the consolidation the same number of Trust Units as such Trust Unitholder held before the distribution of additional Trust Units. In this case, each Trust Unit Certificate represents and is deemed to represent the same number of Trust Units after the non-cash distribution of additional Trust Units and the consolidation pursuant to this Section as the certificate represented prior to the non-cash distribution of additional Trust Units.
- (b) No consolidation of Trust Units pursuant to this Section constitutes a redemption or cancellation of Trust Units so consolidated and no Trust Unitholder whose Trust Units are consolidated will receive, and such Trust Unitholder is not entitled to receive, any proceeds of disposition in respect thereof.

5.8 Withholding Taxes

- (a) The Trustees shall deduct or withhold from distributions payable to any Trust Unitholder all amounts required by law to be withheld from such distribution and the Trust shall remit such taxes to the appropriate governmental authority within the times prescribed by law. Trust Unitholders who are Non-Residents will be required to pay all Canadian withholding taxes payable in respect of any distributions of income by the Trust and all Trust Unitholders who are U.S. Non-residents will be required to pay all U.S. withholding taxes payable in respect of any distributions of income by the Trust, whether such distributions are in the form of cash or additional Trust Units.
- (b) Notwithstanding the foregoing, where tax is required to be withheld in respect of a Trust Unitholder's share of the distribution, the Trust shall withhold from the cash portion of such distribution, if any, or the Trust Unitholder shall make a cash payment to the Trust, of an amount equal to the amount of tax required to be remitted to the appropriate taxation authority by the Trust, or, if such withholding cannot be made by the Trust or such payment is not made by the Trust Unitholder: (a) the consolidation of the Trust Units pursuant to Section 5.7 held by such Trust Unitholder will result in such Trust Unitholder holding that number of Trust Units equal to the number of Trust Units held by such Trust Unitholder prior to the distribution minus the number of Trust Units withheld by the Trust on account of withholding taxes payable by the Trust Unitholder in respect of the distribution; and (b) the consolidation shall not apply to any Trust Units so withheld. Any Trust Units so withheld shall either be delivered to the appropriate taxation authority or sold, in which case the net proceeds is to be remitted to the appropriate taxation

authority. Such Trust Unitholder will be required to surrender the Trust Unit Certificates, if any, representing such Trust Unitholder's original Trust Units, in exchange for a Trust Unit Certificate representing such Trust Unitholder's post-consolidation Trust Units other than the withheld Trust Units.

5.9 Definitions from the Tax Act

Unless otherwise specified or the context otherwise requires, any term in this Article 5 which is defined in the Tax Act has, for the purposes of this Article 5, the meaning given to that it has in the Tax Act.

5.10 Unclaimed Distributions

If the Trustees hold any distributable amount which is unclaimed or which cannot be paid for any reason, neither the Trustees nor any of its agents are under any obligation to invest or reinvest the same but are only obliged to hold the same in a current non- interest bearing account pending payment to the person or persons entitled thereto. The Trustees shall, as and when required by applicable law, and may at any time prior to such required time, pay all or part of such distributable amount so held to the appropriate government official or agency or a court in a province where the principal office of the Trust is located, whose receipt shall be a good and sufficient discharge and release of the Trustees.

5.11 Distribution Reinvestment and Trust Unit Purchase Plans

Subject to any required regulatory approvals (and any Trust Unitholder approval imposed by regulatory requirements), the Trustees may, acting in their sole discretion, establish one or more Trust Unitholder rights plans, Trust Unit distribution reinvestment plans, Trust Unit purchase plans, Trust Unit option plans, incentive option plans or other compensation plans at any time and from time to time.

5.12 Partnership Distribution

In exercising their discretion to declare a cash distribution on the Trust Units, the Trustees shall confirm that the Partnership has or will have sufficient funds to make a corresponding cash distribution on the Redeemable Partnership Units, if any, in accordance with their terms

ARTICLE 6 REDEMPTION OF TRUST UNITS

6.1 Right of Redemption

If by resolution the Trustees authorize the provisions of this Article 6 to take effect and confirm the conversion of the Trust to an Open Ended Trust (the "**Conversion Resolution**"), then each holder of Trust Units is, from and after the time of the Conversion Resolution, entitled to require the Trust to redeem at any time or from time to time at the demand of such holder of Trust Units all or any part of the Trust Units registered in the name of such holder of Trust Units at the prices determined and payable in accordance with the terms and conditions hereinafter provided.

For greater clarity, notwithstanding anything else in this Article 6 or elsewhere in this Declaration of Trust, a holder of Trust Units shall not require the Trust to redeem all or any part of the Trust Units registered in the name of such holder prior to the Conversion Resolution.

6.2 Exercise of Redemption Right

- (a) To exercise a right to require redemption of Trust Units under this Article 6, a duly completed and properly executed notice requesting the Trust to redeem Trust Units, in a form reasonably acceptable to the Trustees, specifying the number of Trust Units to be so redeemed, shall be sent by a holder of Trust Units to the Trust at the head office of the Trust and to the transfer agent of the Trust. No form or manner of completion or execution shall be sufficient unless the same is in all respects satisfactory to the Trustees and the transfer agent of the Trust and is accompanied by any further evidence that the Trustees or the transfer agent of the Trust may reasonably require with respect to the identity, capacity or authority of the person giving such notice.
- (b) Upon receipt by the Trust of the notice to redeem Trust Units, the holder of Trust Units shall thereafter cease to have any rights with respect to the Trust Units tendered for redemption (other than to receive the redemption payment therefor unless the redemption payment is not made as provided for herein) including the right to receive any distributions thereon which are declared payable to the Trust Unitholders of record on a date which is subsequent to the day of receipt by the Trust of such notice. Trust Units shall be considered to be tendered for redemption on the date (the "**Redemption Date**") that the Trust and the transfer agent of the Trust have, to their satisfaction, received the notice and other required documents or evidence as aforesaid.

6.3 Cash Redemption

- (a) Subject to Section 6.4, upon receipt by the Trust of the notice to redeem Trust Units in accordance with Section 6.2, the holder of the Trust Units tendered for redemption shall be entitled to receive a price per Trust Unit (hereinafter called the "**Redemption Price**") equal to the lesser of:
 - (i) 90% of the "market price" per Trust Unit on the principal stock exchange on which the Trust Units are listed (or, if the Trust Units are not listed on any such exchange, on the principal market on which the Trust Units are quoted for trading) during the period of the last ten trading days immediately prior to the date on which the Trust Units were tendered for redemption; and
 - (ii) the "closing market price" on the principal stock exchange on which the Trust Units are listed (or, if the Trust Units are not listed on any such exchange, on the principal market on which the Trust Units are quoted for trading or, if the Trust Units are not listed or quoted for trading, the fair market value thereof as determined by the Trustees in their discretion) on the date that the Trust Units were tendered for redemption.

For the purposes of Section 6.3(a)(i), the "**market price**" shall be, for a specified day, an amount equal to the simple average of the closing price of the Trust Units for each of the ten trading days immediately prior to the specified day on which there was a closing price; provided that if the applicable exchange or market does not provide a closing price but only provides the highest and lowest prices of the Trust Units traded on a particular day, the market price shall be an amount equal to the simple average of the highest and lowest prices for that trading day if there was a trade; and provided further that if there was trading on the applicable exchange or market for fewer than five of the ten trading days, the market price shall be the simple average of the following prices established for each of the ten trading days: the average of the bid and ask prices for each day on which

there was no trading; the weighted average trading price of the Trust Units for each day that there was trading if the exchange or market provides a weighted average trading price; and the average of the highest and lowest prices of the Trust Units for each day that there was trading, if the market provides only the highest and lowest prices of Trust Units traded on a particular day.

For the purposes of Section 6.3(a)(ii), the “**closing market price**” shall be (i) an amount equal to the closing price of the Trust Units if there was a trade on the date on which the Trust Units were tendered for redemption and the exchange or market on which they are traded provides a closing price; (ii) an amount equal to the average of the highest and lowest prices of Trust Units on the date on which the Trust Units were tendered for redemption if there was trading and the exchange or other market on which they are traded provides only the highest and lowest trading prices of Trust Units traded on a particular day; or (iii) the average of the last bid and ask prices on the date if there was no trading on the date.

- (b) Subject to Sections 6.4 and 6.5, the Redemption Price payable in respect of the Trust Units surrendered for redemption during any calendar month shall be satisfied by way of a cash payment on the last day of the calendar month following the month in which the Trust Units were tendered for redemption. Payments made by the Trust of the Redemption Price are conclusively deemed to have been made upon the mailing of a cheque in a postage prepaid envelope addressed to the former holder of Trust Units unless such cheque is dishonoured upon presentment. Upon such payment, the Trust shall be discharged from all liability to the former holders of Trust Units in respect of the Trust Units so redeemed.

6.4 No Cash Redemption in Certain Circumstances

Section 6.3(b) shall not be applicable to Trust Units tendered for redemption by a holder of Trust Units:

- (a) if the total amount payable by the Trust pursuant to Section 6.3 in respect of such Trust Units and all other Trust Units tendered for redemption in the same calendar quarter exceeds \$50,000 (the “**Quarterly Limit**”); provided that the Trustees may, in their sole discretion, waive such limitation in respect of all Trust Units tendered for redemption in any calendar month. Trust Units tendered for redemption in any calendar month in which the total amount payable by the Trust pursuant to Section 6.3(b) exceeds the Quarterly Limit will be redeemed for cash on a pro-rata basis up to the Quarterly Limit pursuant to Section 6.3(b) and, unless any applicable regulatory approvals are required, by a distribution *in specie* under Section 6.5, on a pro-rata basis, for the balance; or
- (b) if, after the Trust Units have been listed for trading on any stock exchange, the normal trading of the Trust Units is suspended or halted on any such stock exchange either: (i) on the date that such Trust Units were tendered to the Trust for redemption; or (ii) for more than five trading days during the 10-day trading period prior to the date on which such Trust Units were tendered for redemption.

6.5 In Specie Redemption

If, pursuant to Section 6.4, Section 6.3(b) is not applicable to Trust Units tendered for redemption by a Trust Unitholder, the Redemption Price per Trust Unit specified in Section 6.3 to which the Trust

Unitholder would otherwise be entitled (provided that if the Redemption Price cannot be otherwise determined then the Redemption Price of a Trust Unit shall be the fair market value thereof as determined by the Trustees in their sole discretion), subject to receipt of all necessary regulatory approvals (which the Trust shall use reasonable commercial efforts to obtain forthwith), shall be paid and satisfied by the delivery to holders of Trust Units tendered for redemption of a distribution *in specie*. In such circumstances, the Trust will distribute Redemption Notes in full satisfaction of the Redemption Price.

No fractional Redemption Notes in integral multiples of less than \$100 will be so distributed and, where the number of such Redemption Notes includes a fraction or multiple less than \$100, that number shall be rounded down to the next lowest whole number or integral multiple of \$100.

Where the Trust makes a distribution *in specie* of Redemption Notes on the redemption of Trust Units, the Trust may, in the discretion of the Trustees, make payable to that former Trust Unitholder any capital gain or income realized by the Trust as a result of the redemption of Trust Units, or any capital gain realized by the Trust as a result of such distribution to the former Trust Unitholder.

The Redemption Price payable pursuant to this Section 6.5 in respect of Trust Units tendered for redemption during any quarter shall, subject to receipt of all necessary regulatory approvals, be paid by the transfer, to or to the order of the Unitholder who exercised the right of redemption, on the last day of the calendar month following the end of the calendar quarter in which the Trust Units were tendered for redemption. In respect of any Trust Assets being transferred in payment of the Redemption Price, the Trust shall be entitled to all interest paid or accrued and unpaid in respect of such Trust Assets (including any other instruments on which interest is accruing), to and including the date of transfer thereof. Payments by the Trust of the Redemption Price are conclusively deemed to have been made upon the mailing of the documents evidencing ownership of the property so distributed by registered mail in a postage prepaid envelope addressed to the former Unitholder and/or any party having a security interest. Upon such payment, the Trust shall be discharged from all liability to the former Trust Unitholder and any party having a security interest in respect of the Trust Units so redeemed.

6.6 Purchase for Cancellation

The Trust may from time to time purchase for cancellation some or all of the Trust Units (or other securities of the Trust which may be issued and outstanding from time to time) in the market (if any), by private agreement (at a price per Unit and on a basis determined by the Trustees) or upon any recognized stock exchange on which such Trust Units are traded or pursuant to tenders received by the Trust upon request for tenders addressed to all holders of record of Trust Units, provided in each case that the Trustees have determined that such purchases are in the best interests of the Trust (including, but not limited to, maintaining the Trust's foreign private issuer status), and are completed in accordance with applicable law (including applicable securities laws).

6.7 Cancellation of all Redeemed Trust Units

All Trust Units which are redeemed or purchased for cancellation under this Article 6 are hereby cancelled and such Trust Units are no longer be outstanding and are not to be reissued.

6.8 Withholdings by the Trustees

The Trustees may deduct or withhold from all payments or other distributions payable to any Trust Unitholder pursuant to this Article 6 all amounts required by applicable law to be so withheld.

ARTICLE 7 TRUSTEES

7.1 Number & Residency of Trustees

The Trustees shall consist of not less than one and no more than 11 Trustees, with the number of Trustees from time to time within such range being fixed by resolution of the Trustees. A majority of the Trustees must be Canadian Residents at all times. If at any time a majority of the Trustees or a majority of any committee of the Trustees are not Canadian Residents, whether because of the death, resignation, insolvency, bankruptcy, adjudicated incompetence or incapacity, removal or change in circumstance of any Trustee who was a Canadian Resident, or there are no Trustees who are Canadian Residents, the Trustee or Trustees who are Non-Residents shall, immediately before that time, be deemed to have resigned and shall cease to be Trustees with effect from the time of such deemed resignation and the remaining Trustees shall, notwithstanding anything to the contrary in Section 8.2 or elsewhere in this Declaration of Trust, appoint a sufficient number of Canadian Resident Trustees to comply with this requirement.

7.2 Calling and Notice of Meetings

Meetings of the Trustees are to be called and held from time to time at such time and at such place in Canada as the Chair of the Trustees or a majority of Trustees may determine, and any one Trustee or officer of the Trust may give notice of meetings when directed or authorized by such persons. Notice of each meeting of the Trustees is to be given to each Trustee not less than two Business Days before the time when the meeting is to be held, provided that if a quorum of Trustees is present, the Trustees may without notice hold a meeting immediately following any meeting of Trust Unitholders. A Trustee may waive this notice and the presence of such Trustee at such a meeting will be deemed to be a waiver of this notice requirement except where such Trustee attends a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting has not been lawfully called or convened. Notice of a meeting of the Trustees may be given orally, in writing or by telephone, fax or electronic mail. A notice of a meeting of Trustees need not specify the purpose of or the business to be transacted at the meeting. Notwithstanding the foregoing, the Trustees may by resolution from time to time fix a day or days in any month or months for regular meetings of the Trustees at a place in Canada and hour to be named, in which case, provided that a copy of such resolution is sent to each Trustee forthwith after being passed and forthwith after each Trustee's appointment, no other notice is to be required for any such regular meeting.

7.3 Place of Meetings

All meetings of the Trustees and all business to be considered and transacted thereat shall be held in Canada. A Trustee who attends a meeting of Trustees, in person or by telephone, is deemed to have consented to the location of the meeting except when he or she attends the meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully held.

7.4 Meetings by Telephone

With the consent of the chair of the meeting or a majority of the other Trustees present at the meeting, a Trustee may participate in a meeting of the Trustees or of a committee of the Trustees by means of telephone, electronic or other communication facilities that permit all persons participating in the

meeting to communicate with each other, provided that a majority of the persons participating in the meeting are physically present in Canada and the conference telephone call or other medium for communication is initiated from Canada. A Trustee participating in such a meeting in such manner is to be considered present at the meeting and at the place of the meeting.

7.5 Quorum

The quorum for the transaction of business at any meeting of the Trustees consists of (a) one Trustee who is a Canadian Resident, where two or fewer Trustees are validly appointed and holding office, or (b) a majority of the Trustees then validly appointed and holding office, provided that a majority of Trustees participating in the meeting are Canadian Residents and a majority of the Trustees participating in the meeting are physically present in Canada. Notwithstanding any vacancy among the Trustees, a quorum of Trustees may exercise all of the powers of the Trustees.

7.6 Chair

The chair of any meeting of the Trustees is to be the Trustee present at the meeting who holds the office of Chair of the Trustees (as appointed by the Trustees under Section 7.10) or, if such person is not present, the Lead Trustee (if one has been appointed) or no such officer(s) has been appointed, the Trustees present shall choose one of their number to be chair.

7.7 Action by the Trustees

The Trustees may act with or without a meeting. At all meetings of the Trustees, every question is to be decided by a majority of the votes cast on the question. In the case of equality of votes, the chair of the meeting is not entitled to a second or casting vote. The powers of the Trustees may be exercised by resolution passed at a meeting at which a quorum is present or by resolution in writing signed by all Trustees who would be entitled to vote on that resolution at a meeting of the Trustees. Resolutions in writing may be signed in counterparts (including by facsimile) each of which is to be deemed to be an original and all originals together once received by the Trust in Canada are to be deemed to be one and the same instrument. Resolutions in writing shall be retained in the Trust's minute book in Canada. The Trustees shall have power from time to time to appoint any Trustee or Trustees or any person or persons on behalf of the Trust either to sign instruments in writing generally or to sign specific instruments in writing.

7.8 Adjourned Meeting

Any meeting of the Trustees may be adjourned from time to time by the chair of the meeting with the consent of the meeting to a fixed time and place in Canada. Further notice of the adjourned meeting need not be given. The adjourned meeting is to be duly constituted if a quorum is present and if it is held in accordance with the terms of the adjournment. If there is not a quorum present at the adjourned meeting, the original meeting is to be deemed to have terminated upon its adjournment.

7.9 Remuneration and Expenses

The Trustees are to be paid, directly or indirectly, such reasonable remuneration for their services as the Trustees may from time to time determine. The Trustees are also entitled to be reimbursed for reasonable traveling and other expenses properly incurred by them in attending meetings of the Board of Trustees or any committee thereof or in connection with their services as Trustees. Nothing herein contained shall preclude any Trustee from serving the Trust in any other capacity, directly or indirectly,

and receiving remuneration therefor. Each of the Trustees, either directly or indirectly, shall also be entitled to receive remuneration for services rendered to the Trust in any other capacity. Such services may include, without limitation, services as an officer of the Trust, legal, accounting or other professional services or services as a broker, transfer agent or underwriter, whether performed by a Trustee or any person affiliated with a Trustee.

7.10 Officers

The Trustees from time to time may appoint one or more officers of the Trust (who will be, to the extent required by applicable law, Canadian Residents), and fix the remuneration of such officers and, without prejudice to rights under any employment or consulting contract, may remove any officer of the Trust. Without limiting the generality of the foregoing, such officers may include, among others, a Chair, President, Chief Executive Officer (or a President and Chief Executive Officer) and Chief Financial Officer. One person may hold more than one office. An asset manager shall have the right until the date of termination of its services to put forward candidates for the position of the Chief Executive Officer and the Chief Financial Officer and such candidates shall be nominated as Trustees (subject to applicable law).

Any office of the Trust appointed by the Trustees may be held by an individual who is not an employee of the Trust but has been retained by the Trust to hold such office or act in such capacity pursuant to a service agreement entered into between the Trust and that individual or that individual's employer. For greater certainty, an individual whose services are provided to the Trust pursuant to any asset management or property management agreement may serve any office or act in the capacity of an officer of the Trust.

The powers and duties of each officer of the Trust shall be those determined from time to time by the Trustees and, in the absence of such determination, shall be those usually applicable to the office held.

If the Chair is not an Independent Trustee, a lead trustee (the "**Lead Trustee**") may be appointed from among the Independent Trustees. If appointed, the Lead Trustee will act as an effective leader of the Trustees in respect of any matters required to be considered by the Independent Trustees, and will ensure that the Trustees' agenda will enable them to successfully carry out their duties.

ARTICLE 8 APPOINTMENT, RESIGNATION AND REMOVAL OF THE TRUSTEES

8.1 Qualification of Trustees

The following persons are disqualified from being a Trustee of the Trust:

- (a) anyone who is less than 18 years of age;
- (b) anyone who is of unsound mind and has been so found by a Court in Canada or elsewhere; or has otherwise become incapable of performing its responsibilities as a Trustee hereunder;
- (c) a person who has been declared bankrupt or insolvent or has entered into liquidation, whether voluntary or compulsory, to wind up the person's affairs; or

- (d) a person who has had all of his assets, or a substantial part thereof, become subject to seizure or confiscation.

8.2 Appointment and Election of Trustees

The Initial Trustee is hereby appointed as of the Date of Formation as the Initial Trustee of the Trust for an initial term of office which, subject to Section 8.5, expires (subject to further appointment or election) at the close of the first meeting of Trust Unitholders, annual or special, convened and held for the purpose of electing Trustees, (or the passing of an Ordinary Resolution in writing in accordance with Subsection 12.7(b)(ii) in lieu of a Trust Unitholder meeting; provided that Trust Unitholders may only remove any Trustee from office by Special Resolution). Except as otherwise provided herein, after the Date of Formation, Trustees are to be elected (including the re-election of incumbent Trustees) by Trust Unitholders. Any such election or appointment is to be made by Ordinary Resolution passed at a meeting of Trust Unitholders convened and held for the purpose of electing Trustees or an Ordinary Resolution in writing in accordance with Subsection 12.7(b)(ii) in lieu of a meeting of Trust Unitholders. Trust Unitholders are entitled to elect Trustees at each meeting of Trust Unitholders, if any, and at a special meeting of Trust Unitholders convened and held for the purpose of electing Trustees. Every Trustee elected or appointed holds office as a trustee under this Declaration of Trust until the later of the close of the next meeting of Trust Unitholders following such election (or the passing of an Ordinary Resolution in writing in accordance with Subsection 12.7(b)(ii) in lieu of a Trust Unitholder meeting; provided that Trust Unitholders may only remove any Trustee from office by Special Resolution), a successor has been elected or appointed, or he ceases to hold office pursuant to Section 8.5. Notwithstanding the foregoing:

- (a) if no Trustees are elected at any meeting of Trust Unitholders held for the purpose of electing Trustees or if no such Trust Unitholder meeting is convened and held (and no Ordinary Resolution in writing in accordance with Subsection 12.7(b)(ii) in lieu of the Trust Unitholder meeting has been passed), the existing Trustees continue to hold their offices as trustees under this Declaration of Trust until successors have been elected or appointed or they cease to hold office pursuant to Section 8.5;
- (b) the Trustees may, between meetings of Trust Unitholders at which Trustees are elected, appoint one or more additional Trustees for a term to expire (subject to further appointment) at the close of the next annual meeting of Trust Unitholders, but at no time is the number of additional Trustees so appointed to exceed one-half of the number of Trustees who held office at the later of the Date of Formation and the last meeting of Trust Unitholders at which Trustees were elected.

8.3 Consent to Act

- (a) A person who is elected or appointed a Trustee hereunder, other than the Initial Trustee whose consent to act is given by his or her signature hereto, must, either before or after such election or appointment, consent in writing to do so. Without limiting the form of such consent, the execution and delivery to the Trust of a form of consent substantially as follows will satisfy such requirement:

"To: PINE TRAIL CAPITAL TRUST (the "Fund")

And to: The Trustees thereof

The undersigned hereby consents to act as a Trustee of the Fund and hereby agrees, upon the later of the date of this consent and the date of the undersigned's election or appointment as a Trustee of the Fund to thereby become a party, as a Trustee, to the Declaration of Trust dated as of December 31, 2017 and as the same may be amended or restated from time to time, constituting the Fund and to be bound by the obligations and liabilities of a Trustee thereunder.

I am a resident of _____

Dated: _____

[Signature]

[Print Name]"

- (b) Upon the later of a person being elected or appointed a Trustee hereunder and executing and delivering to the Trust a consent substantially as set forth in Subsection 8.3(a), such person is to become a Trustee hereunder and is to be deemed to be a party (as a Trustee) to this Declaration of Trust, as amended from time to time.

8.4 Failure to Elect Minimum Number of Trustees

If a meeting of Trust Unitholders fails to elect the minimum number of Trustees required by this Declaration of Trust by reason of the disqualification or death of any nominee, the Trustees elected at the meeting may exercise all of the powers of the Trustees if the number of Trustees so elected constitutes a quorum and the majority of Trustees remaining are residents of Canada.

8.5 Ceasing to Hold Office

- (a) A Trustee ceases to hold office when, subject to the provisions of this Declaration of Trust:
- (i) he or she dies or resigns (including by virtue of a deemed resignation in accordance with Section 7.1);
 - (ii) he or she is removed in accordance with Section 8.6; or
 - (iii) he or she ceases to be duly qualified to act as a Trustee as provided under Section 8.1.
- (b) Except in the case of a deemed immediate resignation pursuant to Section 7.1, the resignation of a Trustee becomes effective 30 days from the date a written resignation is received by the Trust, or at the time specified in the resignation, whichever is later, provided that if, upon the resignation becoming effective, the number of remaining Trustees would be less than the number necessary to constitute a quorum for a meeting of Trustees, the resignation is not effective until the resigning Trustee's successor is duly elected or appointed as a Trustee.

- (c) Upon a Trustee ceasing to hold office as such hereunder, such Trustee ceases to be a party (as a Trustee) to this Declaration of Trust; provided, however, that such Trustee continues to be entitled to be paid any amounts owing by the Trust to the Trustee and to the benefits of the indemnity provided in Section 9.10. Upon the resignation or removal of any Trustee, or upon a Trustee otherwise ceasing to be a Trustee, the Trustee ceases to have the rights, privileges and powers of a Trustee hereunder, shall execute and deliver such documents as the remaining Trustees require for the conveyance of any Trust property held in that Trustee's name, shall account to the remaining Trustees as they may require for all property which that Trustee holds as Trustee, shall resign from all representative or other positions held by such Trustee on behalf of the Trust, including as a director or officer of any affiliate or other person in which the Trust owns securities (directly or indirectly) and thereupon is discharged as Trustee. Upon the incapacity or death of any Trustee, his or her legal representative shall execute and deliver on his or her behalf such documents as the remaining Trustee(s) may require. In the event that a Trustee or his or her personal or legal representative, as applicable, is unable or unwilling to execute and deliver such required documents, each remaining Trustee is hereby appointed as an attorney of such Trustee for the purpose of executing and delivering such required documents. This power of attorney granted to each of the remaining Trustees is not intended to be an enduring power of attorney within the meaning of the *Powers of Attorney Act* (Alberta), but is exercisable during a Trustee's incapacity to manage property, or any similar power of attorney under equivalent legislation in any of the provinces or territories of Canada (a "CPOA"). The execution of this power of attorney will not terminate any CPOA granted by the Trustee previously and is not terminated by the Trustee's execution in the future of a CPOA, and each Trustee hereby agrees not to take any action in the future which results in the termination of this power of attorney.

8.6 Removal of Trustees

The Trust Unitholders may remove any Trustee or Trustees from office by passing an Ordinary Resolution.

8.7 Vacancies

No vacancy among the Trustees elected or appointed operates to annul this Declaration of Trust or affect the continuity of the Trust.

8.8 Filling Vacancies

- (a) A vacancy in the Board of Trustees may be filled by:
- (i) Trust Unitholders passing an Ordinary Resolution at the meeting of Trust Unitholders at which the vacancy was created or an Ordinary Resolution in writing in accordance with Subsection 12.7(b)(ii) within 10 Business Days after the vacancy was created; or
 - (ii) in all other cases, then the vacancy may be filled as set forth in Subsection 8.8(b).
- (b) Provided they constitute a quorum, the remaining Trustees may fill a vacancy among the Trustees, except a vacancy resulting from an increase in the number of Trustees or from a failure to elect or appoint the minimum number of Trustees fixed by or pursuant to this Declaration of Trust. If there is no quorum of Trustees, or if the minimum number of Trustees required by or

pursuant to this Declaration of Trust has not been elected or appointed, the Trust Unitholders may fill the vacancy by passing an Ordinary Resolution at a meeting of Trust Unitholders duly convened and held for such purpose, and the Trustees then in office shall forthwith convene and hold a special meeting of Trust Unitholders for the purpose of passing such Ordinary Resolution to fill the vacancy and, if they fail to call a meeting within 30 days of the vacancy being created or if there are no Trustees then in office, the meeting may be called by any Trust Unitholder.

- (c) A Trustee elected or appointed to fill a vacancy holds office as a trustee under this Declaration of Trust until the later of the close of the next meeting of Trust Unitholders convened and held to elect Trustees (or the passing of an Ordinary Resolution in writing in accordance with Subsection 12.7(b)(ii) in lieu of a Trust Unitholder meeting; provided that Trust Unitholders may only remove any Trustee from office by Special Resolution), a successor has been elected or appointed, or he ceases to hold office pursuant to Section 8.5.

8.9 Validity of Acts

Any act of a Trustee is valid notwithstanding any irregularity in the election or appointment of the Trustee or any Trustees or a defect in the qualifications of the Trustee or any Trustees.

8.10 Successor and Additional Trustees

The rights of the Trustees to control and exclusively administer the Trust and to have the right, title and interest in and to Trust Assets drawn up and registered in their names or in the name of any other successor and all other rights of the Trustees at law vest automatically, whether or not conveyancing documents have been executed and delivered, in any person who may hereafter become a Trustee upon such person's due appointment and qualification without any further act and such person shall thereupon have all the rights, privileges, powers, authorities, obligations and immunities of a Trustee hereunder.

ARTICLE 9 CONCERNING THE TRUSTEES

9.1 Powers of the Trustees

- (a) Subject to the terms and conditions of this Declaration of Trust, the Trustees may exercise from time to time in respect of the Trust Assets and the investments and affairs of the Trust any and all rights, powers and privileges that could be exercised by a legal and beneficial owner thereof.
- (b) All determinations of the Trustees which are made in good faith with respect to any matters relating to the Trust, including, without limitation, whether any particular investment or disposition meets the requirements of this Declaration of Trust, shall be final and conclusive and shall be binding upon the Trust and all Trust Unitholders (and, where the Unitholder is a plan, or other similar fund or plan registered under the Tax Act, upon plan beneficiaries and plan holders past, present and future) and Units of the Trust shall be issued and sold on the condition and understanding that any and all such determinations shall be binding as aforesaid.
- (c) Subject to the specific limitations contained in this Declaration of Trust, the Trustees have, without further or other action or consent, and free from any power of control on the part of the Trust Unitholders, full, absolute and exclusive power, control and authority over the Trust Assets and over, and management of, the affairs of the Trust to the same extent as if the Trustees were

the sole and absolute legal and beneficial owner of the Trust Assets in their own right, to do all such acts and things as in their sole judgment and discretion are necessary or incidental to, or desirable for, carrying out the trust created hereunder or any of the purposes thereof or the conducting of the affairs of the Trust. In construing the provisions of this Declaration of Trust, presumption is to be in favour of the granted powers and authority to the Trustees. The enumeration of any specific power or authority herein (including pursuant to Section 9.2) is not to be construed as limiting the general powers or authority or any other specified power or authority conferred herein on the Trustees. To the maximum extent permitted by applicable law the Trustees are not, in carrying out investment activities, in any way restricted by the provisions of the applicable law of any jurisdiction limiting or purporting to limit investments which may be made by trustees or required to adhere to all of, or any particular portion of the investment criteria or diversification requirements set forth therein, including, without limitation, investments in mutual funds, common trust funds, unit trusts and similar types of investment vehicles, to alter or vary such investments from time to time in a like manner, to retain such investments for such length of time as the Trustees, in their discretion determine and to delegate management and authority to discretionary managers of investment funds as the Trustees in their discretion determine appropriate.

9.2 Specific Powers and Authorities

Subject to Sections 2.12, 2.13, and 4.3 and any other express limitations contained in this Declaration of Trust and in addition to any other powers and authorities conferred by this Declaration of Trust or which the Trustees may have by virtue of any present or future statute or rule of law, the Trustees, without any action or consent by the Trust Unitholders, have and may, in their discretion, exercise at any time and from time to time the following powers and authorities in such manner and upon such terms and conditions as they from time to time determine proper, provided that the exercise of such powers and authorities does not adversely affect the status of the Trust as a "unit trust" or a "mutual fund trust" (once the Trust so qualifies) for purposes of the Tax Act:

- (a) to supervise the activities and manage the investments and affairs of the Trust;
- (b) to maintain records and provide reports to Trust Unitholders;
- (c) to open, operate and close accounts and other similar credit, deposit and banking arrangements and to negotiate and sign banking and financing contracts and agreements;
- (d) without limit as to amount, and to the extent as may be necessary or useful to carry out the purpose of the Trust:
 - (i) to borrow money upon the credit of the Trust and the creditworthiness of the Trust Assets;
 - (ii) to issue, reissue, sell or pledge debt obligations of the Trust and to make, accept, endorse, negotiate or otherwise deal with bonds, debentures, cheques, drafts, notes, orders for the payment of money, bills of exchange, bills of lading, acceptances and other similar instruments and obligations;
 - (iii) to give a guarantee on behalf of the Trust to secure performance of an obligation of another person necessary or useful to carry out the purposes of the Trust;

- (iv) to mortgage, hypothecate, pledge or otherwise create a security interest in all or any movable or personal, immovable or real or other property of the Trust, owned or subsequently acquired, to secure any obligation of the Trust;
- (v) to issue and sell any type of securities or convertible securities and borrow money or incur any other form of indebtedness (which indebtedness, by its terms, may be convertible into Trust Units at such time and for such prices as the Trustees may determine, provided that any indebtedness so created shall not be a Trust Unit and a holder thereof shall not be a Trust Unitholder unless and until fully paid Trust Units are issued in accordance with the terms of such indebtedness) for the purpose of carrying out the purposes of the Trust or for other expenses incurred in connection with the Trust and enter into hedging arrangements with respect thereto and for such purposes may draw, make, execute and issue promissory notes and other negotiable and non-negotiable instruments or securities and evidences of indebtedness, secure the payment of sums so borrowed or indebtedness incurred and mortgage, hypothecate, pledge, assign or grant a security interest in any money owing to the Trust or in Trust Assets or engage in any other means of financing the Trust;
- (e) to obtain security, including encumbrances on assets, to secure the full payment of monies owed to the Trust and the performance of obligations in favour of the Trust, and to exercise all of the rights of the Trust, and to perform all of the obligations of the Trust, under such security;
- (f) to exercise and enforce any and all rights of foreclosure, to bid on property on sale or foreclosure, to take a conveyance in lieu of foreclosure with or without paying a consideration therefor and in connection therewith to revive the obligation on the covenants secured by such security and to exercise and enforce in any action, suit or proceeding at law or in equity any rights or remedies with respect to any such security or guarantee;
- (g) to establish one or more offices of the Trust;
- (h) to manage the Trust Assets;
- (i) to determine conclusively the value of any or all of the Trust Assets from time to time and, in determining such value, to consider such information and advice as the Trustees in their sole judgment, may deem material and reliable;
- (j) to cause legal title to any of the assets of the Trust to be held by or in the name of a Trustee, or except as prohibited by law, by or in the name of the Trust or any other custodian or person, on such terms, in such manner, with such powers in such person as the Trustees may determine and with or without disclosure that the Trust or the Trustee is interested therein; provided, however, that should legal title to any of the Trust Assets be held by or in the name of any person or persons other than a Trustee or the Trust, the Trustees shall require such person or persons to execute a trust agreement acknowledging that legal title to such assets is held in trust for the benefit of the Trust;
- (k) to cause title to any of the Trust Assets to be drawn up in the name of such person on behalf of the Trust or, to the extent permitted by applicable law, in the name of the Trust, as the Trustees determine;

- (l) except as prohibited by applicable law, delegate any of the administrative powers and duties of the Trustees to any one or more agents, representatives, officers, employees, independent contractors or other persons (including an Administrator if appointed) the doing of such things and the exercise of such powers hereunder as the Trustees may from time to time consider expedient, so long as such delegation is not inconsistent with any of the provisions of this Declaration of Trust and subject at all times to the general control and supervision of the Trustees as provided for herein;
- (m) to grant broad discretion to any person (including an Administrator, if appointed) to administer and manage the day-to-day operations of the Trust and to make administrative decisions which conform to the general policies and principles set forth in this Declaration of Trust or otherwise established by the Trustees from time to time, including entering into an Administration and Services Agreement;
- (n) to invest, hold shares, trust units, beneficial interests, partnership interests (other than general partnership interests), joint venture interests or other interests in any person necessary or useful to carry out the purpose of the Trust;
- (o) to determine conclusively the allocation to capital, income or other appropriate accounts of all receipts, expenses and disbursements;
- (p) to enter into any agreement or instrument to create or provide for the issue of Trust Units (including any firm commitment or best efforts underwriting or agency agreement), to cause such Trust Units to be issued for such consideration as the Trustees, in their sole discretion, may deem appropriate, and to do such things and prepare and sign such documents, including an Offering Document and any registration rights agreement, to qualify or facilitate the distribution of such Trust Units in whatever jurisdictions they are sold or offered for sale;
- (q) to give effect to any arrangement, reorganization, at any time and from time to time;
- (r) to make or cause to be made application for the listing or quotation on any stock exchange or market of any Trust Units or other securities of the Trust, and to do all things which in the opinion of the Trustees may be necessary or desirable to effect or maintain such listing or listings or quotations;
- (s) to collect, sue for and receive all sums of money or other property or items that are believed due to the Trust;
- (t) to effect payment of distributions to Trust Unitholders as provided in Article 5;
- (u) to invest funds of the Trust as provided in Article 4;
- (v) to possess and exercise all the rights, powers and privileges pertaining to the ownership of the securities of any affiliate of the Trust, to the same extent that an individual might, unless otherwise limited herein, and, without limiting the generality of the foregoing, to vote or give any consent, request or notice, or waive any notice, either in person or by proxy or power of attorney, with or without power of substitution, to one or more persons, which proxies and powers of attorney may be for meetings or actions generally or for any particular meeting or action and may include the exercise of discretionary power;

- (w) where reasonably required, to engage, employ or contract with or retain on behalf of the Trust any persons as agents, representatives, employees or independent contractors (including investment advisors, registrars, underwriters, accountants, lawyers, appraisers, brokers, consultants, technical advisors, depositories, custodians, Transfer Agents or otherwise) in one or more capacities;
- (x) except as prohibited by applicable law, to delegate any of the powers and duties of the Trustees to any one or more agents, representatives, officers, employees, independent contractors or other persons (including an Administrator, if appointed) the doing of such things and the exercise of such powers hereunder as the Trustees may from time to time reasonably require, so long as any such delegation is not inconsistent with any of the provisions of this Declaration of Trust and subject at all times to the general control and supervision of the Trustees as provided for herein;
- (y) to engage in, intervene in, prosecute, join, defend, compromise, abandon or adjust, by arbitration or otherwise, any actions, suits, disputes, claims, demands or other litigation or proceedings, regulatory or judicial, relating to the Trust, the assets of the Trust or the Trust's affairs, to enter into agreements therefor, whether or not any suit or proceeding is commenced or claim asserted and, in advance of any controversy, to enter into agreements regarding the arbitration, adjudication or settlement thereof;
- (z) to arrange for insurance contracts and policies insuring the Trust, its assets, any affiliate of the Trust and/or any or all of the Trustees or the Trust Unitholders, including against any and all claims and liabilities of any nature asserted by any person arising by reason of any action alleged to have been taken or omitted by the Trust or by the Trustees or Trust Unitholders;
- (aa) to issue or redeem Trust Units (or rights, warrants, convertible securities, options or other securities) for such consideration as the Trustees may deem appropriate in their sole discretion and such redemption to be subject to the terms and conditions of this Declaration of Trust;
- (bb) to ensure that, once it so qualifies in accordance with Section 2.12, the Trust qualifies from and after that time as a "mutual fund trust" pursuant to Section 132(6) of the Tax Act;
- (cc) to ensure that the Trust is at all times a "real estate investment trust" and not a SIFT trust pursuant to the Tax Act;
- (dd) in addition to the mandatory indemnification provided for in Section 9.10 to the extent permitted by law to indemnify, or enter into agreements with respect to the indemnification of, any person with whom the Trust has dealings including, without limitation, the Trustees, registrar and Transfer Agent or escrow agent, to such extent as the Trustees determine and to the extent permitted by applicable law;
- (ee) without the approval or confirmation of Trust Unitholders, to enact and from time to time amend or repeal by-laws not inconsistent with this Declaration of Trust containing provisions relating to the Trust, the Trust Assets and the conduct of the affairs of the Trust, but not in conflict with any provision of this Declaration of Trust;
- (ff) to pay all taxes or assessments, of whatever kind or nature, whether within or outside Canada or the United States, imposed upon or against the Trustees in connection with the Trust Assets, undertaking or Income of the Trust, or imposed upon or against the Trust Assets, undertaking or

Income of the Trust or Net Realized Capital Gains, or any part thereof and to settle or compromise disputed tax liabilities and for the foregoing purposes to make such returns, take such deductions, and make such designations, elections, allocations and determinations in respect of the Income of the Trust or Net Realized Capital Gains distributed to holders of Trust Units in the year and any other matter as is to be permitted under the Tax Act and any other tax laws, and do all such other acts and things as may be deemed by the Trustees in their sole discretion to be necessary, desirable or convenient;

- (gg) to guarantee the obligations of any subsidiary of the Trust and granting security interests in the Trust Assets as security for such guarantee;
- (hh) to subdivide or consolidate from time to time the issued and outstanding Trust Units;
- (ii) to provide indemnities for Trustees and the directors and officers of any affiliate of the Trust;
- (jj) to form any subsidiary or affiliate of the Trust for the purpose of making any Subsequent Investment and entering into or amending any unanimous shareholders agreement or other agreement on such terms as may be approved by the Trustees;
- (kk) to purchase or otherwise acquire Trust Units for cancellation in accordance with applicable regulatory requirements;
- (ll) to determine a date for termination and dissolution of the Trust for the purpose of Section **Error! Reference source not found.**; and
- (mm) to do all such other acts and things as are incidental to the foregoing, and to exercise all powers which are necessary or useful to carry on the purpose and activities of the Trust, to promote or advance any of the purposes for which the Trust is formed and to carry out the provisions of this Declaration of Trust whether or not specifically mentioned herein.

The Trustees, except as may be prohibited by applicable law, have the right to delegate authority for the above-referenced matters to an Administrator if the Trustees determine in their sole discretion that such delegation is desirable to effect the administration of the duties of the Trustees under this Declaration of Trust. The Trustees may also delegate to officers of the Trust or any affiliate(s) thereof, any one or more of the Trustees, and their respective affiliates certain powers for management or administration of the day-to-day affairs of the Trust, provided such delegation is not inconsistent with this Declaration of Trust.

9.3 Securities Held by the Trust

Subject to the provisions hereof, the securities of any subsidiary or affiliate, direct or indirect, of the Trust, that may be held from time to time by the Trustees as part of the Trust Assets may be voted by the Trustees at any and all meetings of securityholders of the applicable subsidiary or affiliate of the Trust, and the Trustees are entitled to vote in such manner as the Trustees, in their sole discretion, consider to be in the best interests of the Trust Unitholders.

9.4 Banking

The banking activities of the Trust, or any part thereof, including the operation of the Trust's accounts; the making, signing, drawing, accepting, endorsing, negotiation, lodging, depositing or

transferring of any cheques, promissory notes, drafts, acceptances, bills of exchange and orders for the payment of money; the giving of receipts for orders relating to any property of the Trust; the execution of any agreement relating to any property of the Trust; the execution of any agreement relating to any such banking activities and defining the rights and powers of the parties thereto; and the authorizing of any officer of such banker to do any act or thing on the Trust's behalf to facilitate such banking activities, are to be transacted with such bank, trust company, or other firm or corporation carrying on a banking business as the Trustees may designate, appoint or authorize from time to time and are to be transacted on the Trust's behalf by one or more Trustees or one or more officers of the Trust as the Trustees may designate, appoint or authorize from time to time.

9.5 Standard of Care and Duties

The Trustees, in exercising the powers and authority conferred upon them and required of them hereunder, shall be that they act honestly and in good faith with a view to the best interests of the Trust and in connection therewith shall exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. A Trustee is not liable in carrying out his or her duties under this Declaration of Trust except in cases where the Trustee fails to act honestly and in good faith with a view to the best interests of the Trust or, in connection therewith, fails to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. The duties and standard of care of the Trustees provided as aforesaid are intended to be similar to, and not to be any greater than, those imposed on a director of a corporation governed by the ABCA. Unless otherwise required by law, the Trustees are not required to give surety bond or security in any jurisdiction for the performance of any duties or obligations hereunder. The Trustees are not required to devote their entire time to the investments or business or affairs of the Trust. For greater certainty, to the extent that the Trustees contract or delegate the performance of all or a portion of their activities to any asset manager or property manager or any other advisor, they shall be deemed to have satisfied the aforesaid standard of care. For greater certainty, the entering into of an asset management and a property management agreement shall be deemed to be in the best interests of the Trust and the Unitholders.

9.6 Fees and Expenses

The Trust shall pay or cause to be paid all expenses incurred in connection with the administration and management of the Trust and its investments out of the property of the Trust, including:

- (a) interest and other costs of borrowed money;
- (b) fees and expenses of lawyers, engineers, accountants, auditors, appraisers and other agents or consultants or professional advisors employed or retained by or on behalf of the Trust or the Trustees;
- (c) fees and expenses of the Trustees and other reasonable compensation (including, without limitation, fees for serving as chair of the Trust, for serving as chair of any committee of Trustees and for attendance at each meeting of Trustees and of each committee of Trustees);
- (d) fees and expenses connected with the due diligence, acquisition, disposition and ownership of real property interests or mortgage loans or other property;

- (e) insurance as considered necessary by the Trustees;
- (f) expenses in connection with payments of distributions of Trust Units of the Trust;
- (g) expenses in connection with communications to Trust Unitholders and the other bookkeeping and clerical work necessary in maintaining relations with Trust Unitholders;
- (h) expenses of changing or terminating the Trust;
- (i) fees and charges of transfer agents, registrars, indenture trustees and other trustees and custodians;
- (j) all fees, expenses, taxes and other costs incurred in connection with the issuance, distribution, transfer and qualification for distribution to the public of Trust Units and other required governmental filings; and
- (k) all costs and expenses in connection with the incorporation or establishment, organization and maintenance of corporations and other entities formed to hold real property or other property of the Trust;
- (l) fees, costs and expenses incurred in connection with the administration and management of the Trust, including (without limitation) fees under any asset management agreement, real property and brokerage commissions in respect of investments and dispositions of real property made, directly or indirectly by the Trust.

9.7 Limitations on Liability of Trustees

- (a) Subject to the standard of care set forth in Section 9.5, none of the Trustees nor any officer, employee or agent thereof, whether current or former, is liable to any Trust Unitholder for any action taken or not taken in good faith in reliance on any documents that are, *prima facie*, properly executed; for any depreciation of, or loss to, the Trust incurred by reason of the sale of any asset or security; for the loss or disposition of monies or securities; for any action or failure to act of any other person to whom the Trustees have delegated any of their duties under this Declaration of Trust; or for any other action or failure to act including the failure to compel in any way any former Trustee to redress any breach of trust or any failure by any person to perform obligations or pay monies owed to the Trust, except for a breach of the standard of care, diligence and skill as set out in 9.5. If the Trustees (or any of them) have retained an appropriate expert, counsel or advisor with respect to any matter connected with their duties under this Declaration of Trust, the Trustees may rely on or act or refuse to act based on, the advice of, statement, report or opinion prepared by or received from such expert, counsel or advisor and, notwithstanding any provision of this Declaration of Trust, including the standard of care, diligence and skill set out in Section 9.5 hereof, the Trustees are not and shall not be: (i) liable for, and shall be fully protected from any action or refusal to act based on the advice of any such expert, counsel or advisor which it is reasonable to conclude is within the expertise of such expert, counsel or advisor to give; or (ii) responsible or held liable for any loss or damage resulting from so relying or acting or refusing to act.
- (b) Subject to the standard of care set forth in Section 9.5, the Trustees shall not be liable to the Trust or to any Unitholder, Annuitant or any other person for the acts, omissions, receipts, neglects or defaults of any person, firm or corporation employed or engaged by it as permitted

hereunder, or for joining in any receipt or act of conformity or for any loss, damage or expense caused to the Trust through the insufficiency or deficiency of any security in or upon which any of the monies of or belonging to the Trust shall be paid out or invested, or for any loss or damage arising from the bankruptcy, insolvency or tortious act of any person, firm or corporation with whom or which any monies, securities or property of the Trust shall be lodged or deposited, or for any loss occasioned by error in judgment or oversight on the part of the Trustees, or for any other loss, damage or misfortune which may happen in the execution by the Trustees of their duties hereunder.

- (c) Subject to the standard of care set forth in Section 9.5, none of the Trustees nor any officer, employee, agent or representative thereof (including a person employed or retained by an advisor or manager under contract with the Trust), whether current or former, is subject to any liability whatsoever in tort, contract or otherwise, in connection with Trust Assets or the affairs of the Trust, (including, without limitation, in respect of any loss or diminution in value of the Trust or any Trust Assets, to the Trust or to the Trust Unitholders or to any other person (including any Annuitant) for anything done or permitted to be done by the Trustees. None of the Trustees nor any employee, officer, agent or representative thereof (including a person employed or retained by a manager under contract with the Trust) is subject to any personal liability for any debts, liabilities, obligations, claims, demands, judgments, costs, charges or expenses against or with respect to the Trust arising out of anything done or permitted or omitted to be done in respect of the execution of the duties of the office of Trustees for or in respect of the affairs of the Trust. No property or assets of the Trustees, owned in their personal capacity or otherwise, is subject to any levy, execution or other enforcement procedure with regard to any obligations under this Declaration of Trust or under any other agreements. No recourse may be had or taken, directly or indirectly, against the Trustees in their personal capacity or against any employee, officer or agent or representative of the Trustees (including a person employed or retained by a manager under contract with the Trust) or any successor of the Trustees. The Trust is to and shall be solely liable therefor and resort is to be had solely to the Trust Assets for payment or performance thereof. In the exercise of the powers, authorities or discretion conferred upon the Trustees under this Declaration of Trust, the Trustees are and shall be conclusively deemed to be acting as trustees of the Trust's Assets.
- (d) The omission of any statement limiting the liability of the Trustees, whether former or current, as provided for herein from any contract, document, instrument or undertaking shall not render the Trustees liable to any person, nor shall the Trustees be liable for such omission. If the Trustees shall be held liable to any person by reason of the omission of such statement from any such contract, document, instrument or undertaking such Trustee shall be entitled to indemnity and reimbursement out of the Trust's property to the full extent of such liability.

9.8 Payment of Real Property and Brokerage Commissions

The Trust may pay real property and brokerage commissions at commercial rates in respect of the acquisition and disposition (directly or indirectly) of any investment acquired or disposed of by it.

9.9 Asset Management, Property Management, Development, Acquisition, Disposition, Leasing and Financing Fees

The Trust may pay, to an advisor or to others, asset management fees, administrative fees, property management fees, development fees, acquisition fees, disposition fees, leasing fees, capital

expenditure supervision fees and financing fees in respect of any services or any real property owned, in whole or in part, by the Trust or its affiliates, directly or indirectly.

9.10 Indemnification of Trustees and Officers

Each Trustee, each former Trustee, each officer of the Trust and each former officer of the Trust (together, if applicable, with their respective heirs, executors, administrator and legal representatives, an **"Indemnified Person"**) is and shall be entitled to be and shall be indemnified and reimbursed out of the Trust Assets in respect of any and all:

- (a) all liabilities, damages, losses, debts and claims whatsoever, including costs, charges and expenses in connection therewith, sustained, incurred, brought, commenced or prosecuted against them for or in respect of any act, deed, matter or thing whatsoever made, done, acquiesced in or omitted in or about or in relation to the execution of their duties as Trustees and also from and against all other liabilities, damages, losses, debts, claims, costs, charges, and expenses (including, without limitation, legal fees and disbursements on a solicitor and client basis) which they sustain or incur in or about or in relation to the affairs of the Trust (whether accrued, actual, contingent or otherwise), claims, costs, charges or expenses arising out of or in connection with the presence, release, discharge or disposal of any hazardous substance or any adverse environmental conditions at, on, under or near any real property or any investigation, remediation or clean up action required to be undertaken in connection with any real property;
- (b) taxes, penalties or interest in respect of unpaid taxes or other governmental charges imposed upon the Indemnified Person; and
- (c) all other costs, charges and expenses, including amounts paid to settle an action or satisfy a judgment, reasonably incurred in respect of any civil, criminal or administrative action or proceeding to which the Indemnified Person is made a party,

in consequence of such Indemnified Person's performance of his, her or its duties hereunder or by reason of being or having been a Trustee or officer of the Trust or, at the request of the Trust, a director, trustee or officer of affiliate, or any subsidiary or other affiliate thereof; provided that a Trustee, former Trustee, director or officer or former director or officer shall not be indemnified out of the Trust Assets in respect of any such amounts that arise out of or as a result or in the course of his, her or its failure to act honestly and in good faith with a view to the best interests of the Trust, or out of or as a result of or in the course of his, her or its failure to exercise that degree of care, diligence or skill that a reasonably prudent person would exercise in comparable circumstances or, in the case of a criminal or administrative action or proceeding that is enforced by monetary penalty, where such person did not have reasonable grounds for believing that his, her or its conduct was lawful. No Indemnified Person is entitled to satisfy any right of indemnity or reimbursement granted herein, or otherwise existing under law, except out of the Trust Assets. No Trust Unitholder or other Trustee or officer of the Trust (whether current or former) is personally liable to any Indemnified Person with respect to any claim for such indemnity or reimbursement as aforesaid.

The indemnities provided in this Section 9.10 survive the termination of the Trust and the removal or resignation of any Trustee hereunder.

9.11 Conflicts of Interest

- (a) If a Trustee or an officer of the Trust (or a subsidiary or other affiliate of the Trust) is a party to a material contract or transaction or proposed material contract or transaction with the Trust or a subsidiary or other affiliate of the Trust, or is a director or officer or employee of, or has a material interest in, any person who is a party to a material contract or transaction or proposed material contract or transaction with the Trust or a subsidiary or other affiliate of the Trust, such Trustee or officer of the Trust (or a subsidiary or other affiliate of the Trust), as the case may be, shall disclose in writing to the Trustees or request to have entered in the minutes of meetings of Trustees the nature and extent of such interest as provided below.
- (b) The disclosure required in the case of a Trustee or officer is to be made:
- (i) at the meeting of Trustees or a committee of the Trustees at which a proposed contract or transaction is first considered;
 - (ii) if the Trustee or officer was not then interested in a proposed contract or transaction, at the first such meeting after he or she becomes so interested;
 - (iii) if the Trustee or officer becomes interested after a contract is made or a transaction is entered into, at the first meeting after he or she becomes so interested; or
 - (iv) if a person who is interested in a contract or transaction later becomes a Trustee or officer, at the first such meeting of Trustees after he or she assumes that capacity.
- (c) Notwithstanding paragraph (b), where this Section applies to any person in respect of a material contract or transaction or proposed material contract or transaction that, in the ordinary course of the business of the Trust, would not require approval by the Trustees or the Trust Unitholders, such person shall disclose in writing to the Trustees or request to have entered in the minutes of meetings of Trustees or a committee thereof the nature and extent of his interest forthwith after that person becomes aware of the contract or transaction or proposed contract or transaction.
- (d) A Trustee or officer referred to in this section shall not vote on any resolution to approve the contract or transaction (provided, however, that the presence of such Trustee at the relevant meeting or the written recognition by such Trustee of any resolution in writing shall be counted toward any quorum requirement or requirement that at least a minimum number of Trustees or Independent Trustees act) unless the contract or transaction is:
- (i) one relating primarily to his or her remuneration as a Trustee, officer, employee or agent of the Trust or a subsidiary or other affiliate of the Trust;
 - (ii) one for indemnity under Section 9.10 hereof or for the purchase of liability insurance; or
 - (iii) one with any affiliate of the Trust.
- (e) For the purposes hereof, a general notice to the Trustees by a Trustee or an officer of the Trust or any other person referred to in this Section 9.11 disclosing that he or she is a director, officer or employee of or has a material interest in a person and is to be regarded as interested in any contract made or any transaction entered into with that person, is a sufficient disclosure of interest in relation to any contract so made or transaction so entered into.

- (f) Where a material contract is made or a material transaction is entered into between the Trust (or a subsidiary or other affiliate of the Trust) and any one or more of its Trustees or officers, or between the Trust and another person of which a Trustee or officer of the Trust is a director or officer or in which he or she has a material interest:
- (i) the Trustee or officer, as applicable, is not accountable to the Trust or to the Trust Unitholders for any profit or gain realized from the contract or transaction; and
 - (ii) the contract or transaction is neither void nor voidable,
by reason only of that relationship or by reason only that the Trustee is present at or is counted to determine the presence of a quorum at the meeting of Trustees or committee of Trustees that authorized the contract or transaction, if the Trustee disclosed his or her interest in accordance with this Section 9.11 and the contract or transaction was reasonable and fair to the Trust at the time it was so approved.
- (g) Notwithstanding anything in this section, but without limiting the effect of paragraph (f) hereof, a Trustee or officer of the Trust (or a subsidiary or other affiliate of the Trust), acting honestly and in good faith, is not accountable to the Trust or to the Trust Unitholders for any profit or gain realized from any such contract or transaction by reason only of holding the office of Trustee or officer, and the contract or transaction, is not by reason only of the Trustee's or officer's interest therein void or voidable, where:
- (i) the contract or transaction is confirmed or approved at a meeting of Trust Unitholders duly called for that purpose;
 - (ii) the nature and extent of the Trustee's or officer's interest in the contract or transaction are disclosed in reasonable detail in the notice calling the meeting or in any information circular required to be provided by this Declaration of Trust; and
 - (iii) the contract or transaction was reasonable and fair to the Trust at the time it was approved,
- (h) Any Trustee may act as the trustee and/or administrator of any compensation plan (including any equity related compensation plan) for directors, officers, employees or other persons related to the Trust, the Trustees or any other affiliate of the Trust, and it will not be a conflict of interest hereunder for the Trustee to so act.
- (i) Each Trustee, in his or her personal capacity or any other capacity, may buy, lend upon and deal in securities of the Trust without being liable to account for any profit made thereby.

9.12 Conditions Precedent

The obligation of the Trustees to commence or continue any act, action, suit or proceeding or to represent the Trust in any action, suit or proceeding is conditional upon sufficient funds being available to the Trustees from the Trust Assets to commence or continue such act, action, suit or proceeding or to represent the Trust in any action, suit or proceeding and an indemnity reasonably satisfactory to the Trustees to protect and hold harmless the Trustees against the costs, charges and expenses and liabilities to be incurred therein and any loss and damage it may suffer by reason thereof.

None of the provisions contained in this Declaration of Trust require the Trustees to expend or risk their own funds or otherwise incur financial liability in the performance of their duties or in the exercise of any of their rights or powers unless they are given an indemnity and funding satisfactory to the Trustees, acting reasonably.

9.13 Reliance Upon Trustees and Officers

Any person dealing with the Trust in respect of any matters pertaining to the Trust Assets and any right, title or interest therein or to the Trust or to securities of the Trust is to be entitled to rely on a certificate, statutory declaration or resolution executed or certified by the Trustees or any officer of the Trust appointed by the Trustees as to the capacity, power and authority of the Trustees or any other person to act for and on behalf and in the name of the Trust. No person dealing with the Trustees or officers of the Trust is to be bound to see the application of any funds or property passing into the hands or control of the Trustees or officers of the Trust. The receipt of the Trustees or officers of the Trust for monies or other consideration is to be binding upon the Trust.

9.14 Delegation of Powers to the Administrator

Except as expressly prohibited by law, the Trustees may grant or delegate to an Administrator such authority and such powers as the Trustees may in their discretion deem necessary or desirable to effect the actual administration of the duties of the Trustees under this Declaration of Trust, without regard to whether such authority is normally granted or delegated by trustees. The Trustees may grant broad discretion to an Administrator to administer the day-to-day operations of the Trust, to act as agent for the Trust, to execute documents on behalf of the Trust and to make administrative decisions which conform to general policies and general principles set forth herein and in any administration agreement including the power to retain and instruct such appropriate experts or advisors to perform those duties and obligations herein which it is not qualified to perform (and an Administrator shall notify the Trustees of the name of the person or persons retained or instructed and the terms and conditions thereof). The Trustees may enter into an Administration and Services Agreement and any other contract with an Administrator relating to an Administrator's authority, term of appointment, compensation and other matters deemed desirable by the Trustees. The Trustees have no liability or responsibility for any actions of an Administrator appointed hereunder or under any Administration and Services Agreement and the Trustees, in relying upon an Administrator, are deemed to have complied with their obligations under Section 9.5 hereof.

ARTICLE 10 COMMITTEES OF TRUSTEES

10.1 Delegation

Except as prohibited by law, the Trustees may appoint one or more committee(s) of Trustees and may delegate to such committee(s) of Trustees such authority as the Trustees may in their sole discretion deem necessary or desirable to effect the administration of the duties of the Trustees under this Declaration of Trust, without regard to whether such authority is normally granted or delegated by Trustees, provided that a majority of the committee members are Canadian Residents.

10.2 Procedure

Unless otherwise determined by the Trustees, a quorum for meetings of any committee is a majority of its members (provided such quorum is made up of a majority of Canadian Residents), each committee has the power to appoint its chair and the rules for calling, holding, conducting and adjourning meetings of the committee are the same as those governing the Trustees. Each member of a committee serves during the pleasure of the Trustees and, in any event, only so long as he or she is a Trustee. The Trustees may fill vacancies in a committee by appointment from among their members, provided that a majority of the committee members are Canadian Residents. Provided that a quorum is maintained, the committee may continue to exercise its powers notwithstanding any vacancy among its members.

10.3 Audit Committee

Without limiting the generality of Section 10.1, the Trustees may, and to the extent required by applicable law or stock exchange policy shall appoint an audit committee (the “**Audit Committee**”) consisting of at least three Trustees, all of whom shall be Independent Trustees and financially literate within the meaning of National Instrument 52-110 – *Audit Committees*. The Audit Committee shall have the duties and responsibilities set forth in the form of Audit Committee charter established and amended by the Trustees from time to time. The Auditors are entitled to receive notice of every meeting of the Audit Committee and, at the expense of the Trust, to attend and be heard thereat and, if so requested by a member of the Audit Committee, shall attend any meeting of the Audit Committee held during the term of office of the Auditors.

Questions arising at any meeting of the Audit Committee shall be decided by a majority of the votes cast. Decisions may be taken by written consent signed by all of the members of the Audit Committee. The Auditors or a member of the Audit Committee may call a meeting of the Audit Committee on not less than 48 hours’ notice.

10.4 Governance, Compensation and Nominating Committee

Without limiting the generality of Section 10.1, the Trustees may, and if required by applicable law or stock exchange policy shall appoint a Governance, Compensation and Nominating Committee (the “**Governance Committee**”) consisting of at least three Trustees, at least a majority of whom shall be Independent Trustees. The duties of the Governance Committee shall be to review the governance policies of the Trust, including being responsible for: (i) regularly assessing the effectiveness of the Board, each of its committees and individual Trustees; (ii) overseeing the recruitment and selection of candidates as Trustees (iii) organizing an orientation and education program for new Trustees; (iv) considering and approving proposals by the Trustees to engage outside advisors on behalf of the Board of Trustees as a whole or on behalf of the Independent Trustees; (v) reviewing and making recommendations to the Board of Trustees concerning any change in the number of Trustees composing the Board of Trustees; (vi) considering questions of management succession; (vii) administering any Trust Unit purchase plan and any compensation incentive programs; (viii) assessing the performance of management of the Trust; (ix) reviewing and approving the compensation paid by the Trust, if any, to the officers of the Trust; (x) overseeing the duties of the President and Chief Executive Officer of the Trust to ensure the appropriate supervision and management of any potential conflicts of interest and (xi) reviewing and making recommendations to the Board of Trustees concerning the level and nature of the compensation payable to Trustees and officers of the Trust. Questions arising in any meeting of the Governance Committee shall be decided by a majority of the votes.

ARTICLE 11 AMENDMENTS

11.1 Amendments

Subject to Section 11.3, the provisions of this Declaration of Trust may only be amended, altered, supplemented or restated by Special Resolution, except where specifically provided otherwise; including that the Trustees may add to, delete, amend, modify, vary or change the provisions of this Declaration of Trust without the consent, approval or ratification of the Trust Unitholders or any other person at any time:

- (a) prior to, or concurrently with, the effective time of the first Closing of the Offering at which Trust Units are first issued and sold, other than the issue and sale of Trust Units to the Settlor;
- (b) prior to, or concurrently with, the effective time of the Qualifying Transaction for any purpose; or
- (c) at any time for the purpose of:
 - (i) ensuring continuing compliance with applicable law, regulations or policies of any governing authority having jurisdiction over the Trustees, the Trust or Trust Unitholders;
 - (ii) providing additional protection or added benefits for the Trust Unitholders;
 - (iii) providing for the creation and issue of additional classes or series of Trust Units;
 - (iv) removing any conflicts or inconsistencies in this Declaration of Trust or to make minor corrections which are, in the opinion of the Trustees, necessary or desirable and not prejudicial to the Trust Unitholders;
 - (v) changing the situs of, or the laws governing, the Trust which, in the opinion of the Trustees, is desirable in order to provide Trust Unitholders (if any) with the benefit of any legislation limiting their liability provided that such change does not introduce a material disadvantage to the Trust Unitholders (if any) that did not exist prior to such change;
 - (vi) making additions, deletions, amendments, modifications, variations or changes that, in the Trustees' opinion, are necessary or desirable as a result of changes in taxation laws or policies of any governing authority having jurisdiction over the Trustees, the Trust or the Trust Unitholders;
 - (vii) which are necessary or desirable: (i) to ensure continuing compliance with IFRS; or (ii) to ensure the Units are classified as equity for purposes of IFRS;
 - (viii) which are necessary or desirable for the Trust to qualify for a particular status under, or as a result of changes in, taxation or other laws, or the interpretation of such laws, including to prevent the Trust or any of its subsidiaries from becoming subject to SIFT tax;
 - (ix) ensuring that the Trust qualifies or continues to qualify as a "mutual fund trust" under the Tax Act;

- (x) for the purposes of an amendment specified in Section 4.4 or 12.3 that does not require approval by Special Resolution as specified in Section 4.4 or 12.3; or
- (xi) for any purpose (except one in respect of which a Trust Unitholder vote is specifically otherwise required) which, in the opinion of the Trustees, is not prejudicial to Trust Unitholders and is necessary or desirable.

11.2 Amendments by Trust Unitholders

Subject to Sections 11.3 and 11.4, this Declaration of Trust may be amended by the vote of a majority of the votes cast at a meeting of Trust Unitholders called for that purpose or a written resolution.

11.3 Approval by Special Resolution

None of the following shall occur unless the same has been duly approved by a Special Resolution passed at a meeting of Trust Unitholders:

- (a) any amendment to this Section 11.3;
- (b) an exchange, reclassification or cancellation of all or a part of the Trust Units;
- (c) the removal of rights or privileges, or the addition of restrictions or conditions, attached to the Trust Units;
- (d) any constraints of the issue, transfer or ownership of Trust Units or the change or removal of such constraint;
- (e) the termination of the Trust or its subsidiaries (other than as part of an internal reorganization of the assets of the Trust or its subsidiaries as approved by the Trustees and not prejudicial to Trust Unitholders);
- (f) other than pursuant to a Qualifying Transaction, the combination, amalgamation or arrangement of any of the Trust or its subsidiaries with any other entity (other than as part of an internal reorganization of the assets of the Trust or its subsidiaries as approved by the Trustees and not prejudicial to Trust Unitholders); and
- (g) an amendment that requires approval by Special Resolution as specified in Section 4.4.

11.4 Notification of Amendment

As soon as practicable after the making of any amendment, alteration, supplement or restatement pursuant to this Article 11, the Trustees shall furnish written notification of the substance of such amendment, alteration, supplement or restatement to each Trust Unitholder.

11.5 Amendments prior to First Closing

Notwithstanding Sections 11.1 and 15.1, prior to, or concurrently with, the later of the effective time of the first Closing of the Offering at which Trust Units are first issued and sold (other than the issue and sale of any Trust Units to the Settlor) or with the effective time of a Qualifying Transaction, the Trustees may execute and deliver such indentures or instrument supplemental to this Declaration of Trust

or in restatement hereof, which may add to, delete, amend, modify, vary or change any of the provisions hereof, as may be necessary, in the sole discretion of the Trustees acting in good faith, so that provisions of this Declaration of Trust are in the best interests of the Trust Unitholders, without any resolution or authorization of the Trust Unitholders.

11.6 Internal Restructuring

Notwithstanding anything to the contrary herein contained, if at any time the Trustees so resolve to implement an internal reorganization of the assets of the Trust and/or any of the Trust's subsidiaries (including, without limitation, forming additional trusts or limited partnerships to be subsidiaries of the Trust), any such resolution or reorganization shall not require the prior approval of Trust Unitholders provided that such reorganization is not prejudicial to Trust Unitholders.

ARTICLE 12 MEETINGS OF UNITHOLDERS

12.1 Meetings of Trust Unitholders

- (a) The Trust will not hold annual meetings of Trust Unitholders unless a class of Trust Units are listed on a stock exchange and the Trust completes a Qualifying Transaction. If a class of Trust Units is listed on a stock exchange and the Trust has completed a Qualifying Transaction then the Trust shall commence holding annual meetings of the Trust Unitholders the following calendar year, at such time and place in Canada and for such purposes as the Trustees may prescribe for the purpose of electing or removing Trustees, appointing or removing the Auditors of the Trust and transacting such other business as the Trustees may determine or as may properly be brought before the meeting.
- (b) The Trustees may call special meetings of Trust Unitholders or Trust Unitholders, of any class or series, at any time and from time to time and for any purpose.
- (c) Trust Unitholders holding in the aggregate not less than 5% of the total of the Trust Units then outstanding may requisition the Trustees to call a special meeting of Trust Unitholders for the purposes stated in the requisition. To be valid for the purposes hereof, such requisition must (i) be in writing, (ii) set forth the name and address of, and number of Trust Units (and votes attached thereto which, in the aggregate, must not be less than 5% of all votes entitled to be voted at a meeting of Trust Unitholders) held by, each person who is supporting the requisition, (iii) state in reasonable detail the business to be transacted at the meeting, and (iv) be sent to the Trustees in accordance with this Declaration of Trust. Upon receiving a valid requisition for a special meeting of Trust Unitholders, the Trustees will call a meeting of Trust Unitholders to transact the business referred to in the requisition, unless in the Trustees' sole and absolute discretion:
 - (i) the Trustees have called a meeting of Trust Unitholders and have given notice thereof pursuant to Section 12.2;
 - (ii) a record date for a meeting of Trust Unitholders has been fixed and notice thereof has been given to applicable securities regulatory authorities; or
 - (iii) in connection with the business as stated in the requisition:

- (A) it clearly appears that a matter covered by the requisition is submitted by the Trust Unitholder primarily for the purpose of enforcing a personal claim or redressing a personal grievance against the Trust, the Trustees, the Trust Unitholders or one or more of the Trust's subsidiaries, or primarily for the purpose of promoting general economic, political, religious, social or similar causes or primarily for a purpose that does not relate in a significant way to the business or affairs of the Trust;
- (B) the Trust, at the Trust Unitholders' request, had previously included a matter substantially the same as a matter covered by the requisition in an information circular relating to a meeting of Trust Unitholders held within 24 months preceding the receipt of such requisition and the Trust Unitholders failed to present the matter, in person or by proxy, at the meeting,
- (C) substantially the same matter covered by the requisition was submitted to Trust Unitholders in an information circular relating to a meeting of Trust Unitholders held within 24 months preceding the receipt of such requisition and the matter covered by the requisition was defeated, or
- (D) the rights conferred by this Section 12.1 are being abused to secure publicity.

If the Trustees do not, within 21 days after receiving the requisition, call a meeting (except where the grounds for not calling the meeting are one or more of those set forth in this Subsection 12.1(c)), any Trust Unitholder who signed the requisition may call the meeting in accordance with the provisions of Article 12, *mutatis mutandis*.

- (d) Meetings of Trust Unitholders are to be held at place in Canada as the Trustees designate.
- (e) The chair of any annual or special meeting of Trust Unitholders is to be an individual designated by the Trustees for the purpose of such meeting except that, on the valid motion of any Trust Unitholder, as the case may be, or where the Trustees have not designated a chair for the meeting, any individual may be elected as chair by a majority of the votes cast by the Trust Unitholders, as the case may be, represented at the meeting.
- (f) The Trustees, the Accountant and any other person approved by the Trustees, the Trustees' designated chair of the meeting or the chair of the meeting elected by resolution passed by a majority of the votes cast by Trust Unitholders represented at the meeting, may attend meetings of the Trust Unitholders.
- (g) Any person entitled to attend a meeting of Trust Unitholders may participate in the meeting, subject to and in accordance with applicable securities laws, if any, by means of a telephonic, electronic or other communication facility that permits all participants to communicate adequately with each other during the meeting, if the Trust makes available such a communication facility. A person participating in a meeting by such means is deemed for the purposes of this Declaration of Trust to be present at the meeting.
- (h) If the Trustees or the Trust Unitholders call a meeting of Trust Unitholders pursuant to this Declaration of Trust, the Trustees or Trust Unitholders, as the case may be, may determine that the meeting is to be held, subject to and in accordance with applicable securities laws, if any,

entirely by means of a telephonic, electronic or other communication facility that permits all participants to communicate adequately with each other during the meeting, provided that the conference telephone call or other medium for communication is initiated from Canada. A Trust Unitholder participating in such a meeting in such manner is to be considered present at the meeting and at the place of the meeting.

12.2 Notice of Meetings

Notice of all meetings of Trust Unitholders is to be given electronically through notice and access or by unregistered mail, postage prepaid, addressed to each Trust Unitholder at the Trust Unitholder's last address on the books of the Trust, mailed or delivered at least 25 days and not more than 60 days before the meeting. To be valid for the purposes hereof, such notice must specify the time when, and the place in Canada where, such meeting is to be held and must specify the nature of the business to be transacted at such meeting in sufficient detail to permit a Trust Unitholder to form a reasoned judgment thereon, together with the text of any Special Resolution, at the time of mailing of the notice, proposed to be passed. Any adjourned meeting, other than a meeting adjourned for lack of a quorum under Section 12.5(a), may be held as adjourned without further notice. The accidental omission to give notice or the non-receipt of such notice by a Trust Unitholder does not invalidate any resolution passed at any such meeting. Notwithstanding the foregoing, a meeting of Trust Unitholders may be held at any time without notice if all the Trust Unitholders are present or represented thereat or those not so present or represented have waived notice. Any Trust Unitholder (or a duly appointed proxy of a Trust Unitholder) may waive any notice required to be given under the provisions of this Section 12.2, and such waiver, whether given before or after the meeting, cures any default in the giving of such notice.

12.3 Nominations of Trustees

- (a) Only persons who are nominated in accordance with the following procedures shall be eligible for election as Trustees of the Trust. Nominations of persons for election to the Board of Trustees may be made at any annual meeting of Trust Unitholders, or at any special meeting of Trust Unitholders, if one of the purposes for which the special meeting was called was the election of Trustees:
- (i) by or at the direction of the Board of Trustees, including pursuant to a notice of meeting;
 - (ii) by or at the direction or request of one or more Trust Unitholders pursuant to a requisition of the Trust Unitholders made in accordance with this Article 12;
 - (iii) by any person (a "**Nominating Trust Unitholder**"): (A) who, at the close of business on the date of the giving of the notice provided for below in this Section 12.3 and on the record date for notice of such meeting, is entered in the Register as a holder of one or more Trust Units carrying the right to vote at such meeting or who beneficially owns Trust Units that are entitled to be voted at such meeting; and (B) who complies with the notice procedures set forth below in this Section 12.3.
- (b) In addition to any other applicable requirements, for a nomination to be made by a Nominating Trust Unitholder, the Nominating Trust Unitholder must have given timely notice thereof to the Trustees in the manner prescribed by this Declaration of Trust. Furthermore, if such notice is made on a day which is not a Business Day or later than 5:00 p.m. (Calgary time) on a day which

is a Business Day, then such notice shall be deemed to have been made on the subsequent day that is a Business Day.

- (c) To be timely, a Nominating Trust Unitholder's notice to the Trustees must be made:
 - (i) in the case of an annual meeting of Trust Unitholders, not less than 30 nor more than 60 days prior to the date of the annual meeting of Trust Unitholders; provided, however, that in the event that the annual meeting of Trust Unitholders is to be held on a date that is less than 50 days after the date (the "**Notice Date**") on which the first public announcement of the date of the annual meeting was made, notice by the Nominating Trust Unitholder may be made not later than the close of business on the 10th day following the Notice Date; and
 - (ii) in the case of a special meeting (which is not also an annual meeting) of Trust Unitholders called for the purpose of electing Trustees (whether or not called for other purposes), not later than the close of business on the 15th day following the day on which the first public announcement of the date of the special meeting of Trust Unitholders was made. In no event shall any adjournment or postponement of a meeting of Trust Unitholders or the announcement thereof commence a new time period for the giving of a Nominating Trust Unitholder's notice as described above.
- (d) To be in proper written form, a Nominating Trust Unitholder's notice to the Trustees must set forth:
 - (i) as to each person whom the Nominating Trust Unitholder proposes to nominate for election as a Trustee: (A) the name, age, business address and residential address of the person; (B) the principal occupation or employment of the person; (C) the class or series and number of Trust Units in the capital of the Trust which are controlled or which are owned beneficially or of record by the person as of the record date for the meeting of Trust Unitholders (if such date shall then have been made publicly available and shall have occurred) and as of the date of such notice; and (D) any other information relating to the person that would be required to be disclosed in a dissident's proxy circular in connection with solicitations of proxies for election of Trustees pursuant to applicable laws; and
 - (ii) as to the Nominating Trust Unitholder giving the notice, any proxy, contract, arrangement, understanding or relationship pursuant to which such Nominating Trust Unitholder has a right to vote any Trust Units of the Trust and any other information relating to such Nominating Trust Unitholder that would be required to be made in a dissident's proxy circular in connection with solicitations of proxies for election of Trustees pursuant to applicable laws.
- (e) Notwithstanding anything in this Article 12, the Trustees may amend this Declaration of Trust without Trust Unitholder approval to provide the right to a Qualifying Transaction Party to nominate such number of Trustees (for the purpose of this Section 12.3, "**Qualifying Transaction Party Nominees**"), up to a maximum of not more than half of the Trustees appointed prior to the Completion of the Qualifying Transaction, concurrently with, or immediately following the Completion of the Qualifying Transaction, provided that the Qualifying Transaction Party making such nomination holds no less than 10% of the Trust Units and a majority of

Trustees following the appointment of the Qualifying Transaction Party Nominees are resident in Canada.

- (f) Notwithstanding anything in this Declaration of Trust, the Trustees may, without approval of Trust Unitholders, increase the size of the Board of Trustees to create such number of vacancies required to appoint the Qualifying Transaction Party Nominees as Trustees, and upon the creation of such vacancies, and subject to Section 12.3(i), the Qualifying Transaction Party Nominees shall become Trustees.
- (g) The Trustees shall have the exclusive right to fill vacancies caused by one of the Qualifying Transaction Party Nominees ceasing to hold office, provided such replacement Trustee is qualified to serve as a Trustee and the Trustees shall only fill vacancies occurring by one of the Qualifying Transaction Party Nominees ceasing to hold office by an individual so nominated by the Qualifying Transaction Party and, subject to Section 12.3(i) and upon such nominee being thereafter appointed by the Trustees, such individual shall serve as a Trustee.
- (h) Prior to, or concurrently with, the effective time of the Qualifying Transaction, the Trustees may amend this Section 12.3 without Trust Unitholder approval, including to amend, delete or replace Section 12.3 in its entirety, or otherwise amend or change this Section 12.3 as may be desired or required in connection with the Qualifying Transaction or to cause the this Declaration of Trust's provisions in respect of the appointment or nomination of Trustees to accord with market conditions or the customary provisions of similar issuers or otherwise.
- (i) The Trust may require any proposed nominee, including a Qualifying Transaction Party Nominee, to furnish such other information as may reasonably be required by the Trust to determine the eligibility of such proposed nominee to serve as an Independent Trustee of the Trust or that could be material to a reasonable Trust Unitholder's understanding of the independence, or lack thereof, of such proposed nominee.
- (j) No person shall be eligible for election as a Trustee of the Trust unless nominated in accordance with the provisions of this Section 12.3; provided, however, that nothing in this Section 12.3 shall be deemed to preclude discussion by a Trust Unitholder (as distinct from the nomination of Trustees) at a meeting of Trust Unitholders of any matter in respect of which it would have been entitled to submit to a vote pursuant to the terms and conditions contained in this Declaration of Trust. The chair of the applicable meeting shall have the power and duty to determine whether a nomination was made in accordance with the procedures set forth in the foregoing provisions and, if any proposed nomination is not in compliance with such foregoing provisions, to declare that such defective nomination shall be disregarded.
- (k) For purposes of this Section 12.3, "**public announcement**" shall mean disclosure in a press release reported by a national news service in Canada, or in a document publicly filed by the Trust under its profile on the System of Electronic Document Analysis and Retrieval at www.sedar.com.
- (l) Notwithstanding the foregoing, the Board of Trustees may, in its sole discretion, waive any requirement in this Section 12.3.

12.4 Chair

The chair of any meeting of the Trust Unitholders shall be the Chair of the Trustees or any other Trustee specified by resolutions of the Trustees or, in the absence of any Trustee, any person appointed as chair of the meeting by the Trust Unitholders present.

12.5 Quorum

- (a) At any meeting of the Trust Unitholders, subject as hereinafter provided, a quorum consists of two or more individuals present in person either holding personally or representing by proxy not less in aggregate than 5% of the votes attached to the total Trust Units then outstanding and entitled to vote at the meeting. If such quorum is not present at the appointed place on the date for which the meeting is called within 30 minutes after the time fixed for the holding of such meeting, the meeting, if called by request of Trust Unitholders, is thereupon terminated or, if otherwise called, the meeting stands adjourned to such day being not less than 14 days later and to such place in Canada and time as may be appointed by the chair of the meeting. If at such adjourned meeting a quorum as above defined is not present, the Trust Unitholder(s) present either in person or by proxy form a quorum, and any business may be brought before or dealt with at such an adjourned meeting which might have been brought before or dealt with at the original meeting in accordance with the notice calling the same.
- (b) Notwithstanding Subsection (a), if at any meeting at which a Special Resolution is proposed to be passed the holders of 5% of the aggregate number votes attached to the Trust Units then outstanding and entitled to vote upon such resolution are not present in person or by proxy within 30 minutes after the time appointed for the meeting, then the meeting, if convened by or on the requisition of Trust Unitholders, is thereupon dissolved; but in any other case, the meeting stands adjourned to such date, being not less than 21 nor more than 60 days later and to such place in Canada and time as may be appointed by the chair of the meeting. Not less than 10 days' prior notice is to be given of the time and place of such adjourned meeting in the manner provided in Section 12.2. To be valid for the purposes hereof, such notice must state that at the adjourned meeting the Trust Unitholders entitled to vote upon such resolution, without restriction, present in person or by proxy form a quorum but it is not necessary to set forth the purposes for which the meeting was originally called or any other particulars. At the adjourned meeting, the Trust Unitholders entitled to vote upon such resolution, present in person or by proxy form a quorum and may transact the business for which the meeting was originally convened and a resolution proposed at such adjourned meeting and passed by the requisite vote as provided in Section 12.5(a) is to be a Special Resolution within the meaning of this Declaration of Trust, notwithstanding that the holders of less than 5% of the aggregate number of Trust Units then outstanding and entitled to vote upon such resolution, are present in person or by proxy at such adjourned meeting.

12.6 Voting Rights

Only Trust Unitholders of record are entitled to vote, subject to Section 12.10. Each Trust Unit entitles the holder or holders of that Trust Unit to one vote on a ballot or poll vote taken at any meeting of Trust Unitholders. Every question submitted to a meeting, including approvals sought for any Ordinary Resolution or Special Resolution, is to be decided by a show of hands vote, on which every person present and entitled to vote is entitled to one vote, unless a ballot or poll vote is demanded by a Trust Unitholder or the chair of the meeting, or is otherwise required under this Declaration of Trust, in which

case voting on the resolution is to be done by ballot or poll. At any meeting of Trust Unitholders, any Trust Unitholder entitled to vote thereat or upon a resolution may vote by proxy and a validly appointed proxyholder need not be a Trust Unitholder. The Trustees may, in their discretion, at any time and from time to time make or approve any rules regarding the conduct of voting on any Special Resolution or Ordinary Resolution. When any Trust Unit is held jointly by several persons, any one of them may vote at any meeting in person or by proxy in respect of such Trust Unit, but if more than one of them is present at such meeting in person or by proxy and such joint owners or their proxies so present disagree as to any vote to be cast, such vote purporting to be executed by or on behalf of a Trust Unitholder is deemed valid unless challenged at or prior to its exercise, and the burden of proving invalidity rests on the challenger.

12.7 Meaning of “Special Resolution” and “Ordinary Resolution”

- (a) **“Special Resolution”** when used in this Declaration of Trust means, subject to this Article 12 (and further, subject to compliance with the requirements of any applicable law or the rules of any applicable stock exchange or governing authority that prohibit specified Trust Unitholders from voting on resolutions in specified circumstances):
- (i) a resolution proposed to be passed as a special resolution at a meeting of Trust Unitholders (including an adjourned meeting) duly convened for that purpose and held in accordance with the provisions of this Article 12 and passed by more than 66 $\frac{2}{3}$ % of the votes cast on such resolution by Trust Unitholders present or represented by proxy at the meeting; or
 - (ii) notwithstanding any other provision of this Declaration of Trust, a resolution in writing executed by Trust Unitholders holding more than 66 $\frac{2}{3}$ % votes attached to outstanding Trust Units at any time, which written resolution is as valid and binding as a Special Resolution for all purposes of this Declaration of Trust as if such Trust Unitholders had exercised at that time all of the voting rights required under Subsection 12.7(a)(i) in favour of such resolution at a meeting of Trust Unitholders duly called for the purpose; and
- (b) **“Ordinary Resolution”** when used in this Declaration of Trust means, subject to this Article 12 (and further, subject to compliance with the requirements of any applicable law or the rules of any applicable stock exchange or governing authority that prohibit specified Trust Unitholders from voting on resolutions in specified circumstances):
- (i) a resolution proposed to be passed at a meeting of Trust Unitholders (including an adjourned meeting) duly convened and held in accordance with the provisions of this Article 12 and passed by more than 50% of the votes cast on such resolution by Trust Unitholders present or represented by proxy at the meeting; or
 - (ii) notwithstanding any other provision of this Declaration of Trust, a resolution in writing executed by Trust Unitholders holding more than 50% votes attached to outstanding Trust Units at any time, which written resolution is as valid and binding as an Ordinary Resolution for all purposes of this Declaration of Trust as if such Trust Unitholders had exercised at that time all of the voting rights required under Subsection 12.7(b)(i) in favour of such resolution at a meeting of Trust Unitholders duly called for the purpose.

12.8 Meaning of “Outstanding”

Every Trust Unit that has been validly issued hereunder and is shown in the Register is deemed to be outstanding until such Trust Unit is shown in the Register as having been cancelled and the applicable Trust Unit Certificate has been cancelled or delivered to the Trustees or, where so appointed in respect of the applicable class or series of Trust Units, the Transfer Agent for cancellation, provided that:

- (a) when a new Trust Unit Certificate has been issued in substitution for a Trust Unit Certificate that has been lost, stolen, mutilated or destroyed, only the replacement Trust Unit Certificate is counted for the purposes of determining the number of Trust Units outstanding;
- (b) for the purpose of any provision of this Declaration of Trust entitling Trust Unitholders to vote, sign consents, requisitions or other instruments or take any action under this Declaration of Trust, Trust Units owned directly or indirectly, legally or equitably, by the Trust, the Trustees or any subsidiary are to be disregarded, except that:
 - (i) for the purpose of determining whether the Trustees are protected in relying on any such vote, consent, requisition or other instrument or action, only the Trust Units which the Trustees know are so owned are to be so disregarded; and
 - (ii) Trust Units so owned which have been pledged in good faith other than to the Trust or any of its respective subsidiaries, or any other affiliate of the Trust are not to be so disregarded if the pledgee establishes to the satisfaction of the Trustees the pledgee's right to vote such Trust Units in his or her discretion free from the control of the Trust, any of their respective subsidiaries or any other affiliate of the Trust; and
- (c) for the purposes of this Section 12.8, the Trustees or, if so appointed for the applicable class or series of Trust Units, the Transfer Agent will provide a certificate stating the number of Trust Units and the certificate numbers of the Trust Unit Certificates, if certificates are issued, held by the Trust, an affiliate of the Trust, any of their respective subsidiaries or any other affiliate of the Trust. The Trustees are entitled to rely on such certificate in order to disregard the votes of any of such parties.

12.9 Record Date for Voting

Subject to applicable law, for the purpose of determining the Trust Unitholders who are entitled to vote or act at any meeting or any adjournment thereof, the Trustees may fix a date not more than 60 days and not less than 21 days prior to the date of any meeting of Trust Unitholders as a record date for the determination of Trust Unitholders entitled to vote at such meeting or any adjournment thereof, and any person who was a Trust Unitholder at the time so fixed is to be entitled to vote at such meeting or any adjournment thereof even though the person has since that time disposed of his or her Trust Units, and no Trust Unitholder becoming such after that time is to be so entitled to vote at such meeting or any adjournment thereof. If the Trustees do not fix a record date for any meeting of Trust Unitholders, the record date for such meeting is to be the Business Day immediately preceding the date upon which notice of the meeting is given as provided under Section 12.2.

12.10 Binding Effect of Resolutions

- (a) Trust Unitholders may pass resolutions, whether as Ordinary Resolutions or Special Resolutions to the extent required hereunder (and, unless specified herein, any such resolution is to be

approved as a Special Resolution), that bind the Trust only with respect to the following matters and, in any case, only to the extent permitted or authorized under this Declaration of Trust, and subject always to the rights and powers of the Trustees under Section 11.1:

- (i) an exchange, reclassification or cancellation of all or part of the Trust Units;
- (ii) an arrangement of the Trust;
- (iii) the addition, change or removal of the rights, privileges, restrictions or conditions attached to some or all of the Trust Units, other than the determination of any series of Preferred Units;
- (iv) the constraint of the issue, transfer or ownership of Trust Units or the change or removal of such constraint;
- (v) the ratification of any Trust Unitholder rights plan, distribution reinvestment plan, Trust Unit purchase plan, Trust Unit option plan, incentive option plan or other compensation plan requiring Trust Unitholder approval;
- (vi) the election, appointment or removal of a Trustee as provided in Article 8;
- (vii) except as provided in Section 18.1, the appointment or removal of Auditors;
- (viii) amendment, alteration, supplement or restatement of this Declaration of Trust, as provided in Section 11.1; and
- (ix) the termination and dissolution of the Trust prior to the end of its term as provided in Section **Error! Reference source not found.**,

provided that Trust Unitholders shall not pass any resolution that would cause the Trust, an affiliate of the Trust, any of their respective subsidiaries or any other affiliate of the Trust, as the case may be, to breach the terms of the constating documents of the affiliate.

- (b) Except with respect to the above matters set out in this Section 12.10, no action taken by the Trust Unitholders or any resolution of the Trust Unitholders at any meeting in any way binds the Trustees. Any action taken or resolution passed in respect of any matter on which Trust Unitholder approval is required under this Declaration of Trust is to be by Special Resolution, unless the contrary is otherwise expressly provided under any specific provision of this Declaration of Trust and except for the matters set out in Subsections 12.10(a)(a)(iv) or (a)(v)above, which matters may be dealt with by Ordinary Resolution.
- (c) Every Ordinary Resolution and every Special Resolution passed in accordance with the provisions of this Declaration of Trust at a meeting of Trust Unitholders or passed in writing in lieu of a Trust Unitholder meeting is binding upon every Trust Unitholder and Trust Unitholder, whether present at or absent from such meeting or whether or not signed by the Trust Unitholder or Trust Unitholder, and each Trust Unitholder and Trust Unitholder is to be bound to give effect accordingly to every such Ordinary Resolution and Special Resolution.

12.11 Proxies

- (a) Whenever the vote or consent of Trust Unitholders is required or permitted under this Declaration of Trust, a Trust Unitholder has the right to appoint a proxy to attend and act for the Trust Unitholder at any meeting of Trust Unitholders and his vote or consent may be given either directly by the Trust Unitholder or by proxy. The Trustees, on behalf of the Trust, may solicit instruments of proxy from the Trust Unitholders or any of them in respect of any matter requiring or permitting the vote or consent of the Trust Unitholders and in connection with all meetings of Trust Unitholders. In connection therewith, the Trust will comply, to the extent possible, with all provisions of the ABCA and the requirements of Canadian securities laws applicable to the solicitation of proxies.
- (b) To be valid for the purposes hereof, the instrument appointing a proxy must be:
 - (i) in writing and either substantially in a form which may be approved by the Trustees acting reasonably or as may be satisfactory to the chair of the meeting at which it is sought to be exercised;
 - (ii) executed by the Trust Unitholder giving the proxy or his or her agent duly authorized in writing and, if given on behalf of joint holders, must be executed by all of them and may be revoked by any of them, and, if given by a Trust Unitholder which is a body corporate or other non-individual, must be executed on its behalf by a person duly authorized in writing; and
 - (iii) received by the Trustees (or a validly appointed Administrator, if any) or, where so appointed for the class or series of Trust Units, the Transfer Agent for verification at least two Business Days prior to the commencement of such meeting, or in such manner as the Trustees may, in respect of a particular meeting, prescribe and notify the Trust Unitholders of, including the deposit with the chair of the meeting before any vote is cast under its authority or at such earlier time.
- (c) Any person may be appointed a proxy, whether or not that person is a Trust Unitholder.
- (d) An instrument of proxy executed in compliance with the foregoing is valid unless challenged at the time of or prior to its exercise and the person challenging the instrument has the burden of proving, to the satisfaction of the chair of the meeting at which the instrument is proposed to be used, that the instrument of proxy is invalid. Any decision of the chair of the meeting in respect of the validity of an instrument of proxy is final and binding upon all persons, including Trust Unitholders. An instrument of proxy is valid only at the meeting with respect to which it was solicited or any adjournment thereof.
- (e) A vote cast in accordance with any proxy is valid notwithstanding the death, incapacity, insolvency or bankruptcy of the Trust Unitholder giving the proxy or the revocation of the proxy unless written notice of the death, incapacity, insolvency, bankruptcy or revocation of the proxy has been received by the chair of the meeting prior to the time the vote is cast.
- (f) A proxy is valid only at the meeting in respect of which it is given or an adjournment of that meeting.

12.12 Class or Series Meeting

If any business to be transacted at a meeting of Trust Unitholders, or any action to be taken or power to be exercised by instrument in writing, especially affects the rights of the holders of Trust Units of one or more classes or series in a manner or to an extent substantially differing from that in or to which it affects the rights of the holders of Trust Units of any other class or series, then:

- (a) reference to such fact, indicating each class or series so especially affected, is to be made in the notice of such meeting and the meeting is to be and is herein called a “**Series Meeting**”, and
- (b) the holders of Trust Units of a class or series so especially affected is not bound by any action taken at a Series meeting or by instrument in writing unless in addition to compliance with the other provisions of this Article:
 - (i) at such Series Meeting:
 - (A) there are present in person or by proxy holders of at least 5% of the outstanding Trust Units of the class or series so especially affected, notwithstanding that such Trust Units are not otherwise Trust Units, subject to the provisions of this Article as to quorum at adjourned meetings; and
 - (B) the resolution is passed by the favourable votes of the holders of more than 50% (or in the case of a Special Resolution not less than 66 $\frac{2}{3}$ %) of the Trust Units of the class or series so especially affected, notwithstanding that such Trust Units are not otherwise Trust Units, voted on the resolution; or
 - (ii) in the case of action taken or power exercised by instrument in writing, such instrument is signed in one or more counterparts by the holders of not less than 66 $\frac{2}{3}$ % of the outstanding Trust Units of the class or series so especially affected, notwithstanding that such Trust Units are not otherwise Trust Units.

If any business to be transacted at any meeting, or any action to be taken or power to be exercised by instrument in writing does not adversely affect the rights of the holders of Trust Units of one or more particular classes or series that are not otherwise Trust Units, the provisions of this Article 12 apply as if the Trust Units of such class or series were not outstanding and no notice of any such meeting need be given to the holders of Trust Units of such class or series, unless those Trust Units are also Trust Units.

12.13 No Breach

Notwithstanding any provision of this Declaration of Trust, Trust Unitholders have no power to effect any amendment hereto which would require the Trustees to take any action or conduct the affairs of the Trust in a manner which would constitute a breach or default by the Trust or the Trustees under any agreement binding on or obligation of the Trust or the Trustees.

12.14 Meeting Information

Prior to each meeting of Trust Unitholders, the Trustees will provide to each Trust Unitholder, together with the notice of the meeting:

- (a) a form of proxy which can be used by a Trust Unitholder to appoint a proxy, who need not be a Trust Unitholder, to attend and act at the meeting on behalf of the Trust Unitholder, in the manner and to the extent authorized by the proxy;
- (b) all information required by either applicable law or by this Declaration of Trust; and
- (c) if Trust Unitholder action is to be taken on any matter (including an arrangement, alterations of capital, charter amendments, property acquisitions or dispositions, reverse takeovers, amalgamations, mergers, arrangements or reorganizations, which require Trust Unitholder approval hereunder) to be submitted to the meeting of Trust Unitholders (other than the approval or receipt of financial statements), a description of the substance of the matter or related groups of matters in sufficient detail to enable reasonable securityholders to form a reasoned judgment concerning the matter.

12.15 Meetings of Trust Unitholders

If, for any reason under this Declaration of Trust, the Trustees call a meeting of Trust Unitholders (of any class or series) or the vote, authorization, consent or approval from Trust Unitholders (of any class or series) is sought, the meeting is to be convened and held, any vote, authorization, consent or approval of Trust Unitholders (of the particular class or series) are to be given, in accordance with the provisions of this Article 12, *mutatis mutandis*.

ARTICLE 13 POWER OF ATTORNEY & TAKE-OVER BIDS

13.1 Power of Attorney

Each Trust Unitholder hereby grants to the Trustees, their successors and assigns, a power of attorney constituting the Trustees, with full power of substitution, as such Trust Unitholder's true and lawful attorney and agent, to act on the Trust Unitholder's behalf with full power and authority in the Trust Unitholder's name, place and stead, and for the Trust Unitholder's benefit and use, to do the following, namely:

- (a) execute, swear to, acknowledge, deliver, make and file when, as and where required (including with any governmental body or instrumentality thereof of the Government of Canada or a province thereof) any and all of the following, under seal or otherwise:
 - (i) the Declaration of Trust, and any and all instruments, declarations, certificates, deeds, agreements or documents, and any amendments thereto or renewals, replacements or restatements thereof, in connection with the affairs of the Trust as authorized in the Declaration of Trust, which is authorized from time to time as contemplated by Article 11, or as necessary to reflect any amendment or restatement of the Declaration of Trust or to reflect the admission to the Trust of subscribers for or transferees of Trust Units, including changes to the Register any and all conveyances, transfers and other documents required in connection with any subscription for or transfer of Trust Units;
 - (ii) the Declaration of Trust, any amendment, supplement or restatement of the Declaration of Trust and any other instruments, declarations, certificates, deeds, agreements or documents, and any amendments thereto or renewals, replacements or restatements

thereof, required or desirable to qualify, continue and keep in good standing the Trust as a "mutual fund trust" under the Tax Act;

- (iii) any and all elections, determinations or designations, whether jointly with third parties or otherwise, under the Tax Act or any other taxation or other legislation or similar laws of Canada or of any other jurisdiction in respect of the affairs of the Trust or of a Trust Unitholder's interest in the Trust;
 - (iv) all conveyances, agreements and other instruments or documents deemed necessary or desirable by the Trustees to reflect the dissolution, liquidation or termination of the Trust in accordance with the terms of this Declaration of Trust, including cancellation of any certificates or declarations and the execution of any elections or making of any filings under the Tax Act and any analogous legislation, as any of the same may be amended or re-enacted from time to time;
 - (v) all transfers, conveyances and other documents required to facilitate the acquisition of Trust Units of Dissenting Unitholders pursuant to Section 13.2;
 - (vi) all documents necessary to be filed in connection with the property, assets and affairs of the Trust; and
 - (vii) all other instruments and documents on his, her or its behalf and in his, her or its name or in the name of the Trust as may be deemed necessary by the Trustees to carry out fully this Declaration of Trust in accordance with its terms; and
- (b) complete, amend or modify any of the foregoing to complete any missing information or correct any clerical or other errors in the completion of any of the foregoing.

In addition to and as evidence of the foregoing, each Trust Unitholder, in subscribing for one or more Trust Units or in taking valid transfer (whether by sale, assignment or otherwise) of one or more Trust Units, is conclusively deemed to have executed and granted a power of attorney on substantially the powers set forth above and to have acknowledged and agreed to be bound by the provisions of the Declaration of Trust as a Trust Unitholder. The power of attorney granted is irrevocable, is a power coupled with an interest, continues despite the mental incompetence of the Trust Unitholder, survives the death, disability, incapacity, insolvency or other legal incapacity of the Trust Unitholder, and survives the transfer (whether by sale, assignment or otherwise), to the extent of the obligations of the Trust Unitholder hereunder, by the Trust Unitholder of the whole or any part of the interest of the Trust Unitholder in the Trust and extends to the heirs, executors, administrators, successors and assigns of the Trust Unitholder, and may be exercised by one or more of the Trustees in executing by fax, electronically or originally on behalf of the Trust Unitholder any instrument with a single signature as a trustee of the Trust or by listing all the beneficiaries of the Trust and executing such instrument with a single signature or as attorney and agent for all of the Trust Unitholders, or by such other form of execution as the Trustees may determine, and it is not necessary for the Trustees to execute any instrument under seal notwithstanding the manner of execution of the power of attorney by the Trust Unitholder. The power of attorney does not merge on the dissolution of the Trust but continues in full force and effect thereafter for the purposes of concluding any matters pertaining to the Trust or to the dissolution of the Trust and the winding-up of its affairs.

The power of attorney continues in respect of each of the Trustees so long he or she is a trustee of the Trust, and terminates thereafter, but subsequently continues in respect of a new Trustee as if the new Trustee was the original attorney.

A transferee of or subscriber for a Trust Unit, upon becoming a Trust Unitholder, is conclusively deemed to have acknowledged and agreed to be bound by the provisions of this Declaration of Trust as a Trust Unitholder, and is conclusively deemed to have provided the Trustees with the power of attorney described herein and in the Declaration of Trust.

The power of attorney granted herein is, to the extent permitted by applicable law, irrevocable and will survive the assignment by the Trust Unitholder of all or part of the Trust Unitholder's interest in the Trust and will extend to and bind the heirs, executors, administrators and other legal representatives and successors and assigns of the Trust Unitholder.

13.2 Take-Over Bids

- (a) If within 120 days after the date of a take-over bid (which, for purposes of this Section 13.2, includes an issuer bid made by the Trust) the bid is accepted by the holders of not less than 90% of the Trust Units, calculated on a fully diluted basis, other than Trust Units held at the date of the take-over bid by or on behalf of the offeror or an affiliate or associate of the offeror, the offeror is entitled, on complying with this Section 13.2, to acquire the Trust Units held by holders of Trust Units that did not tender to the take-over bid (the “**dissenting offerees**”).
- (b) An offeror may acquire Trust Units held by a dissenting offeree by sending by registered mail within 60 days after the date of termination of the take-over bid and in any event within 180 days after the date of the take-over bid, an offeror's notice to each dissenting offeree stating that:
 - (i) the offerees holding more than 90% of the Trust Units, calculated on a fully diluted basis, accepted the take-over bid, other than Trust Units held at the date of the takeover bid by or on behalf of the offeror or an affiliate or associate of the offeror;
 - (ii) the offeror is bound to take up and pay for or has taken up and paid for the Trust Units of the offerees who accepted the take-over bid;
 - (iii) a dissenting offeree is required to elect:
 - (A) to transfer his Trust Units to the offeror on the terms on which the offeror acquired the Trust Units of the offerees who accepted the takeover bid, or
 - (B) to demand payment of the fair value of his Trust Units in accordance with Subsections 13.2(h) to 13.2(q) by notifying the offeror within 20 days after he receives the offeror's notice;
 - (iv) a dissenting offeree who does not notify the offeror in accordance with Subparagraph 13.2(b)(iii)(B) is deemed to have elected to transfer his Trust Units to the offeror on the same terms that the offeror acquired the Trust Units from the offerees who accepted the take-over bid; and
 - (v) a dissenting offeree must send his Trust Units to which the take-over bid relates to the Trust within 20 days after he receives the offeror's notice.

- (c) Concurrently with sending the offeror's notice under Subsection 13.2(b), the offeror shall send to the Trust a notice of adverse claim disclosing the name and address of the offeror and the name of the dissenting offeree with respect to each Trust Unit held by a dissenting offeree.
- (d) A dissenting offeree to whom an offeror's notice is sent under Subsection 13.2(b) shall, within 20 days after he receives that notice, send his Trust Unit Certificates to the Trust.
- (e) Within 20 days after the offeror sends an offeror's notice under Subsection 13.2(b), the offeror shall pay or transfer to the Trust the amount of money or other consideration that the offeror would have had to pay or transfer to a dissenting offeree if the dissenting offeree had elected to accept the take-over bid under Subparagraph 13.2(b)(iii)(A).
- (f) The Trust is deemed to hold in trust for the dissenting offeree the money or other consideration it receives under Subsection 13.2(e) and the Trust shall deposit the money in a separate account in a bank or other body corporate any deposits of which are insured by the Canada Deposit Insurance Corporation or guaranteed by the Québec Deposit Insurance Board, and shall place the other consideration in the custody of a bank or such other body corporate.
- (g) Within 30 days after the offeror sends an offeror's notice under Subsection 13.2(b), the Trust shall:
 - (i) issue to the offeror a Trust Unit Certificate in respect of the Trust Units that were held by dissenting offerees;
 - (ii) give to each dissenting offeree who elects to accept the take-over bid terms under Subparagraph 13.2(b)(iii)(A) and who sends his Trust Unit Certificates, as required under Subsection 13.2(d), the money or other consideration to which he is entitled, disregarding fractional Trust Units, if any, which may be paid for in money; and
 - (iii) send to each dissenting offeree who has not sent his Trust Unit Certificates, as required under Subsection 13.2(d) a notice stating that:
 - (A) his Trust Units have been cancelled;
 - (B) the Trust or some designated person holds in trust for him the money or other consideration to which he is entitled as payment for or in exchange for his Trust Units, and
 - (C) the Trust will, subject to Subsections 13.2(h) to 13.2(q), send that money or other consideration to him forthwith after receiving his Trust Units.
- (h) If a dissenting offeree has elected to demand payment of the fair value of his Trust Units under Subparagraph 13.2(b)(iii)(B), the offeror may, within 20 days after it has paid the money or transferred the other consideration, under Subsection 13.2(e), apply to a court to fix the fair value of the Trust Units of that dissenting offeree.
- (i) If an offeror fails to apply to a court under Subsection 13.2(h), a dissenting offeree may apply to a court for the same purpose within a further period of 20 days.

- (j) Where no application is made to a court under Subsection 13.2(i) within the period set out in that subsection, a dissenting offeree is deemed to have elected to transfer his Trust Units to the offeror on the same terms that the offeror acquired the Trust Units from the offerees who accepted the take-over bid.
- (k) An application under Subsections 13.2(h) or 13.2(i) shall be made to a court having jurisdiction in the place where the Trust has its registered office.
- (l) A dissenting offeree is not required to give security for costs in an application made under Subsections 13.2(h) or 13.2(i).
- (m) On an application under Subsections 13.2(h) or 13.2(i):
 - (i) all dissenting offerees referred to in Subparagraph 13.2(b)(iii)(B) whose Trust Units have not been acquired by the offeror shall be joined as parties and shall be bound by the decision of the court;
 - (ii) the offeror shall notify each affected dissenting offeree of the date, place and consequences of the application and of his right to appear and be heard in person or by counsel; and
 - (iii) On an application to a court under Subsections 13.2(h) or 13.2(i) the court may determine whether any other person is a dissenting offeree who should be joined as a party, and the court shall then fix a fair value for the Trust Units of all dissenting offerees.
- (n) A court may in its discretion appoint one or more appraisers to assist the court to fix a fair value for the Trust Units of a dissenting offeree.
- (o) The final order of the court shall be made against the offeror in favour of each dissenting offeree and for the amount for his Trust Units as fixed by the court.
- (p) In connection with proceedings under this Section 13.2, a court may make any order it thinks fit and, without limiting the generality of the foregoing, it may:
 - (i) fix the amount of money or other consideration that is required to be held in trust under Subsection 13.2(f);
 - (ii) order that money or other consideration be held in trust by a person other than the Trust; and
 - (iii) allow a reasonable rate of interest on the amount payable to each dissenting offeree from the date he sends or delivers his Trust Unit Certificates under Subsection 13.2(d) until the date of payment.
- (q) Where an offeror is entitled to acquire Trust Units held by a dissenting offeree pursuant to Subsection 13.2(b) and the offeror wishes to exercise such right, the offeror shall also deliver an offer (the "**Redemption Offer**") to the Trustees, at the same time that an offeror's notice is delivered pursuant to Subsection 13.2(b), addressed to each holder of Redeemable Partnership Units to acquire all Trust Units issued to such holder by the Trust following the redemption of the holder's Redeemable Partnership Units for Trust Units pursuant to the Partnership Agreement.

The Redemption Offer shall be made on the same terms as the Offeror acquired the Trust Units of the Trust Unitholders who accepted the take-over bid and the redemption by the holder of the Redeemable Partnership Units and the acquisition by the Offeror of the Trust Units issuable upon redemption thereof shall occur within 30 days of delivery of the Redemption Offer to the Trustees. The Trustees shall deliver the Redemption Offer to each holder of Redeemable Partnership Units forthwith upon receipt, if any such holders exist.

ARTICLE 14 TERMINATION & DISSOLUTION

14.1 Duration of the Trust

- (a) Unless the Trust is sooner terminated as otherwise provided herein, the Trust shall continue in full force and effect so long as the Trustees hold any property of the Trust, and the Trustees shall have all the powers and discretions, expressed or implied, conferred upon them by law or by this Declaration of Trust.
- (b) The Trust shall terminate at the time specified in a decision to terminate the Trust by a Special Resolution at any meeting of Trust Unitholders duly called for such purpose, which Special Resolution may contain such directions to the Trustees as the Trust Unitholders approve; and
- (c) The Trust shall terminate on the date which is one day prior to the date, if any, the Trust would otherwise be void by virtue of any applicable rule against perpetuities then in force in Alberta. For the purpose of terminating the Trust by such date, the Trustees shall commence the dissolution of the Trust on such date as the Trustees may determine, being not more than two years prior to the end of the term of the Trust.

14.2 Procedure for Termination & Dissolution

- (a) After the date on which the Trustees are required to commence the dissolution of the Trust, the Trustees shall undertake no activities except for the purpose of the dissolution and winding-up the affairs of the Trust as hereinafter provided and, for this purpose, the Trustees shall continue to be vested with and may exercise all or any of the powers conferred upon the Trustees under this Declaration of Trust.
- (b) Forthwith upon being required to commence the dissolution of the Trust, the Trustees shall proceed with the dissolution and winding-up the affairs of the Trust as soon as may be reasonably practicable and for such purpose shall, subject to any direction in respect of a dissolution authorized under Subsection 14.1(b):
 - (i) give notice thereof to the Trust Unitholders;
 - (ii) sell and convert into money the Trust Assets, including all property and assets comprising the Trust, in one transaction or in a series of transactions at public or private sales and do all other acts appropriate to liquidate the Trust;
 - (iii) pay, retire or discharge or provide for the payment, retirement or discharge of all known debts, liabilities and obligations of the Trust, including Trust Liabilities;
 - (iv) if, after:

- (A) paying, retiring or discharging or making provision for the payment, retirement or discharge of all known liabilities and obligations of the Trust, including Trust Liabilities, and
- (B) providing for indemnity against any other outstanding liabilities and obligations and
- (C) paying in full of the Redemption Price applicable to outstanding Trust Units,

any Trust Assets remain or if the Trustees are unable to sell all of the Trust Assets by the date set for termination, subject to obtaining all necessary regulatory approvals, the Trustees may distribute the remaining part of the proceeds of the sale of the Trust Assets together with any cash forming part of the Trust Assets to the Trust Unitholders indicated on the applicable Register(s), in accordance with and proportionate to the number of Trust Units held by them. Any such distribution is payable to each Trust Unitholder of record based on the proportionate share thereof attributable to each Trust Unit issued and outstanding as of effective date of dissolution; for clarity, the proportionate share for each Trust Unit is to be determined by dividing the remaining part of the proceeds of the sale of the Trust Assets together with any cash forming part of the Trust Assets by the number of issued and outstanding Trust Units on the applicable Distribution Record Date;

- (v) file any elections, determinations or designations under the Tax Act or under any similar legislation which may be necessary or desirable; and
- (vi) file any notice of dissolution prescribed by applicable law or any governing authority and satisfy all applicable formalities in such circumstances as may be prescribed thereby.

14.3 Further Notice to Trust Unitholders

In the event that less than all of the Trust Unitholders have surrendered their Trust Units for cancellation within six months after the time specified in the notice referred to in Section 14.2, the Trustees shall give further notice to the remaining Trust Unitholders to surrender their Trust Units for cancellation and if, within one year after the further notice, all the Trust Units have not been surrendered for cancellation, such remaining Trust Units are deemed to be cancelled without prejudice to the rights of the holders of Trust Units comprising such Trust Units to receive their pro-rata share of the remaining Trust Assets, and the Trustees may either take appropriate steps, or appoint an agent to take appropriate steps, to contact such Trust Unitholders (deducting all expenses thereby incurred from the amounts to which such Trust Unitholders are entitled as aforesaid) or, in the discretion of the Trustees, may pay such amounts into court.

14.4 Responsibility of the Trustees after Sale and Conversion

- (a) The Trustees are under no obligation to invest the proceeds of any sale of investments or other assets or cash forming part of the Trust Assets after the date for termination and dissolution of the Trust determined pursuant to in Section **Error! Reference source not found.** and, after such sale, the sole obligation of the Trustees under this Declaration of Trust is to be to hold such proceeds or assets in trust for distribution under Section 14.3.
- (b) The Trustees have no liability for any amounts received provided that they have acted in good faith.

ARTICLE 15 ARRANGEMENTS

15.1 Meaning of Arrangement

In this Declaration of Trust, “**arrangement**” includes but is not restricted to,

- (a) an amendment to this Declaration of Trust or the constating document(s) of any other person, including the amendment to the articles of a corporation;
- (b) an amalgamation of two or more persons that are corporations or bodies corporate that results in an amalgamated corporation subject to the Corporate Legislation pursuant to which an application under Subsection 15.2(a) is made respecting the proposed arrangement;
- (c) a division of the business carried on by the Trust or any other person;
- (d) a transfer of all or substantially all the property of a person to another person in exchange for property, money or securities of the other person;
- (e) an exchange of securities of a person (including the Trust) held by security holders (including the Trust Unitholders) for property, money or other securities of one or more other persons;
- (f) a liquidation and dissolution of the Trust or any other person;
- (g) a compromise between a person and its creditors or any class of its creditors or between a person and the holders of its equity securities or debt obligations or any class of those holders; or
- (h) any combination of the foregoing,

unless the context otherwise requires another meaning for “arrangement”.

15.2 Arrangement Process

- (a) An application may be made to a Court by the Trust or any other person or a security holder or creditor of the Trust or any other person for an order approving an arrangement in respect of the Trust or such other person, as applicable. An application in respect of an arrangement under this Declaration of Trust may be made in conjunction or concurrently with an application respecting an arrangement under Corporate Legislation.
- (b) In connection with an application under this Declaration of Trust, the Court, unless it dismisses the application:
 - (i) shall order the holding of a meeting of Trust Unitholders, a class or classes of any other security holders of the Trust, or a class or classes of security holders of any other person as the Court determines to vote on the proposed arrangement, if the Court considers that those persons are or that class of security holders is affected by the proposed arrangement;
 - (ii) shall order a meeting of creditors or holders of debt obligations of the Trust or any other person or holders of options or rights to acquire securities of the Trust or any other

person, or any class of those holders, if the Court considers that those persons or that class of security holders is affected by the proposed arrangement;

- (iii) may, with respect to any meeting referred to in clause (i) or (ii), give any directions in the order respecting:
 - (A) the calling of and the giving of notice of the meeting,
 - (B) the conduct of the meeting,
 - (C) subject to Subsection (d), the majority required to pass a resolution at the meeting, and
 - (D) any other matter it thinks fit, and
 - (iv) may make an order appointing counsel to represent, at the expense of the Trust, the interests of the Trust Unitholders or any of them.
- (c) The notice of a meeting referred to in Subsection 15.2(b)(i) or (b)(ii) must contain or be accompanied with
- (i) a statement explaining the effect of the arrangement, and
 - (ii) if the application is made by the Trust, a statement of any material interests of the Trustees, and affiliates of the Trust and their respective directors and officers, whether as directors, security holders or creditors, and the effect of the arrangement on those interests.
- (d) An order made under Subsection 15.2(b) in respect of any meeting may not provide for any majority that is less than the following:
- (i) in the case of Trust Unitholders, a majority that constitutes, at least, a Special Resolution under this Declaration of Trust;
 - (ii) in the case of a vote of the equity securities of any other person or a class of equity securities of any other person, including shareholders of a corporation or body corporate, a majority of at least $\frac{2}{3}$ of the votes cast by the equity security holders voting on the resolution;
 - (iii) in the case of a vote of creditors or a class of creditors, a majority in number representing at least $\frac{2}{3}$ of the amount of their claims;
 - (iv) in the case of a vote of the holders of debt obligations or a class of those holders, a majority in number representing at least $\frac{2}{3}$ of the amount of their claims;
 - (v) in the case of a vote of holders of options or rights to acquire securities, the majority that would be required under clause (i), (ii) or (iv) if those holders had acquired ownership of the securities.

- (e) Notwithstanding anything in Subsections 15.2(b) to 15.2(d), if a resolution required to be voted on pursuant to the order under Subsection 15.2(b) is in writing and signed by all the persons entitled to vote on the resolution,
 - (i) the meeting required to be held by the order need not be held, and
 - (ii) the resolution is as valid as if it had been passed at a meeting.
- (f) After the holding of the meetings required by an order under Subsection 15.2(b) or the submission to it of written resolutions that comply with Subsection 15.2(e), the Court shall hear the application and may in its discretion:
 - (i) approve the arrangement as proposed by the applicant or as amended by the Court, or
 - (ii) refuse to approve the arrangement,and make any further order it thinks fit.
- (g) After an order referred to in Subsection 15.2(f)(i) has been made, the Trust shall, where the arrangement order has been made pursuant to Corporate Legislation send or cause another person to send to the applicable registrar of corporations under the applicable Corporate Legislation (the "**Registrar**"):
 - (i) a copy of the order;
 - (ii) articles of arrangement in the prescribed form;
 - (iii) articles of amalgamation or a statement of intent to dissolve pursuant to applicable Corporate Legislation in the prescribed form, if applicable; and
 - (iv) the documents required by Corporate Legislation, if applicable, regarding notice of records or registered office, and notice of directors for any corporation, body corporate or company subject to the applicable Corporate Legislation,and the Registrar shall file them.
- (h) On filing any documents referred to in Subsections 15.2(g)(ii) and 15.2(g)(iii), the Registrar shall issue the appropriate certificate in accordance with Corporate Legislation, if applicable.
- (i) An arrangement becomes effective upon completion of the steps embodied in the arrangement as approved by the Court and, where the arrangement order has been made pursuant to Corporate Legislation:
 - (i) on the date shown in the certificate issued pursuant to Subsection 15.2(h), or
 - (ii) if no certificate is required to be issued pursuant to Subsection 15.2(h), on the date the documents are filed pursuant to Subsection 15.2(g).
- (j) An arrangement as approved by the Court is binding on the Trust, the Trust Unitholders and all other persons.

**ARTICLE 16
SUPPLEMENTAL INDENTURES**

16.1 Provision for Supplemental Indentures for Certain Purposes

The Trustees may, without approval of the Trust Unitholders and subject to the provisions hereof, and they shall, when so directed in accordance with the provisions hereof, execute and deliver indentures or instruments supplemental hereto which thereafter form part hereof, for any one or more or all of the following purposes:

- (a) modifying or amending any provisions of this Declaration of Trust in the circumstances set forth in Section 11.1 or 11.3 where the Trustees may do so without the consent, approval or ratification of the Trust Unitholders, as applicable, or any other person; and
- (b) modifying or amending any provisions of this Declaration of Trust where the modification or amendment has been approved by Special Resolution or, if required, with the consent of the holders of all the Trust Unitholders,

provided that the Trustees may in their sole discretion decline to enter into any such supplemental indenture which in its opinion may not afford adequate protection to the Trustees when the same is to become operative.

**ARTICLE 17
GENERAL**

17.1 Notices

- (a) Any notice, communication or other document required to be given or sent to one or more Trust Unitholders under this Declaration of Trust is to be given or sent through ordinary post addressed to each registered Trust Unitholder at his or her last address appearing on the Register or in any other manner from time to time permitted by applicable law (including Canadian securities laws), including Internet-based or other electronic communication; provided that if there is a general discontinuance of postal service due to strike, lockout or otherwise, such notice may be given by personal service or by internet-based or other electronic communications (provided it is done in accordance with applicable law) or by publication twice in the Report on Business section of the National Edition of *The Globe and Mail* or similar section of any other newspaper having national circulation in Canada; provided further that if there is no newspaper having national circulation, then by publishing twice in the business section of a newspaper in each city where the Register or a branch Register is maintained. Any notice so given is to be deemed to have been given and delivered (i) on the day following that on which the letter or circular was mailed or, (ii) in the case of notice being given by publication, after publishing such notice twice in the designated newspaper or newspapers, or (iii) in the case of notice given by Internet-based or other electronic communication, on the later of (A) the Business Day following the day on which such notice is sent or made available, and (B) the earliest time and date as is permissible under applicable law governing the Internet-based or other electronic communication. In proving notice was mailed, it is to be sufficient to prove that such letter or circular was properly addressed, stamped and mailed.

- (b) Any written notice or written communication given to one or more of the Trustees is to be given at the head office of the Trust or, if the Trust has appointed and retained a Transfer Agent, the such notice is to be addressed to the Trustees c/o the Transfer Agent with a copy to the head office of the Trust, and (in any case) is deemed to have been given on the date of delivery or, if mailed, five days from the date of mailing. If any such notice or communication has been mailed and if regular mail service is to be interrupted by strikes or other irregularities, such notice or communication is to be deemed to have been received 48 hours after 12:01 a.m. on the day following the resumption of normal mail service, provided that during the period that regular mail service is to be interrupted any notice or other communication is to be given by personal delivery or by fax or other means of prepaid, transmitted or recorded communication.

17.2 Failure to Give Notice

The failure by the Trustees, by accident or omission or otherwise unintentionally, to give any Trust Unitholder, any Trustee or an auditor any notice provided for herein does not affect the validity, effect or taking effect of any action referred to in such notice, and the Trustees are not liable to any Trust Unitholder for any such failure.

17.3 Joint Holders

Service of a notice or document on any one of two or more joint Trust Unitholders is to be deemed effective service on the other joint holders.

17.4 Service of Notice

Any notice or document sent by post to or left at the address of a Trust Unitholder pursuant to this Article is, notwithstanding the death or bankruptcy of such Trust Unitholder, and whether or not the Trustees have notice of such death or bankruptcy, deemed to have been fully served and such service is to be deemed sufficient service on all persons having an interest in the Trust Units concerned.

17.5 Right to Inspect Documents

A Trust Unitholder and any agent, consultant or creditor of the Trust has the right to examine this Declaration of Trust, the Trustees' Regulations, the minutes of meetings and resolutions of the Unitholders, and any other documents or records which the Trustees determine should be available for inspection by such person, during normal business hours at the principal office of the Trust. The Trust Unitholders and creditors of the Trust shall have the right to obtain or make or cause to be made a list of all or any of the registered holders of Trust Units, to the same extent and upon the same conditions as those which apply to shareholders and creditors of a corporation governed by the ABCA.

In addition to any other information available to Trust Unitholders under this Declaration of Trust, each Trust Unitholder has the right to obtain, on demand and without fee, from the head office of the Trust a copy of this Declaration of Trust and any amendments thereto relating to Trust Units held by that Trust Unitholder.

17.6 Fiscal Year and Taxation Year

Each fiscal year and Taxation Year of the Trust ends on December 31 of each calendar year.

17.7 Reporting to Trust Unitholders

The Trust will send (or make available if sending is not required under applicable securities laws) to Trust Unitholders such financial statements and other reports as are and to the extent from time to time required by applicable law, including any securities Laws. Prior to a meeting of Trust Unitholders, the Trustees will provide the Unitholders (along with notice of such meeting) information as and to the extent required by applicable law.

17.8 Taxation Information

On or before March 30 in each year, or such earlier day as is required by applicable legislation or regulation, the Trust will provide to Trust Unitholders who received distributions from the Trust in the prior calendar year, such information required by Canadian law to be submitted to Trust Unitholders for Canadian income tax purposes to enable Trust Unitholders to complete their Canadian tax returns in respect of such distributions. In particular, for Canadian income tax purposes, each Trust Unitholder shall be informed each year of the composition of the amounts payable by the Trust to such Trust Unitholder in terms of net income, taxable dividends, net taxable gains, foreign source income and return of capital, and will be informed of the portion of such net income that has been designated as taxable dividends on shares of taxable Canadian corporations and taxable capital gains and of the amount of any foreign taxes paid by the Trust in respect of which the Trust Unitholder may claim a credit for Canadian tax purposes to the extent permitted by the Tax Act, where those items are applicable. The Trust also will provide to Trust Unitholders who received distributions from the Trust in the prior calendar year such information as is required by U.S. law to be submitted to Trust Unitholders for U.S. income tax purposes to enable Trust Unitholders to complete their U.S. tax returns in respect of such distributions, including, to the extent applicable, the allocation of the distributions payable by the Trust to each Trust Unitholder to ordinary income, capital gain and return of capital.

17.9 Trust Unitholder List

- (a) Any person, on payment of a reasonable fee and on sending to the Trust or its agent the statutory declaration referred to in Subsection 17.9(e), may on application require the Trust or its agent to furnish within 10 days from the receipt of the statutory declaration a list, referred to in this section as the “basic list”, made up to a date not more than 10 days before the date of receipt of the statutory declaration setting out:
- (i) the names of the Trust Unitholders;
 - (ii) the number of Trust Units owned by each Trust Unitholder; and
 - (iii) the address of each Trust Unitholder,
- as shown on the records of the Trust.
- (b) A person requiring the Trust to supply a basic list may, if the person states in the statutory declaration referred to in Subsection 17.9(a) that the person requires supplemental lists, require the Trust or its agent on payment of a reasonable fee to furnish supplemental lists setting out any changes from the basic list in the information provided in it for each Business Day following the date the basic list is made up to.
- (c) The Trust or its agent shall furnish a supplemental list required under Subsection 17.9(b):

- (i) on the date the basic list is furnished, if the information relates to changes that took place prior to that date; and
 - (ii) on the Business Day following the day to which the supplemental list relates, if the information relates to changes that take place on or after the date the basic list is furnished.
- (d) A person requiring the Trust to supply a basic list or supplemental list may also require the Trust to include in that list the name and address of any known holder of an option or right to acquire Trust Units of the Trust.
- (e) The statutory declaration required under Subsection 17.9(a) shall state:
 - (i) the name and address of the applicant;
 - (ii) the name and address for service of the body corporate if the applicant is a body corporate; and
 - (iii) that the basic list and any supplemental lists obtained pursuant to Subsection 17.9(b) will not be used except as permitted under Subsection 17.9(g).
- (f) If the applicant is a body corporate, the statutory declaration is to be made by a director or officer of the body corporate.
- (g) A list of Trust Unitholders obtained under this Section 17.9 must not be used by any person except in connection with:
 - (i) an effort to influence the voting of Trust Unitholders;
 - (ii) an offer to acquire Trust Units; or
 - (iii) any other matter relating to the affairs of the Trust.

17.10 Operations and Assets of the Trust

All operations and assets of the Trust will be held, directly or indirectly, through the Partnership unless: (i) the Trustees determine that an alternative ownership structure would be in the best interests of the Trust; and (ii) such alternative structure provides holders of Redeemable Partnership Units, if any, with legal rights and economic benefits derived therefrom that are equivalent to the rights and benefits that holders of Redeemable Partnership Units would have if the operations and assets were held through the Partnership.

17.11 Trust Assets to be Kept Separate

The Trustees shall maintain the Trust Assets separate from all other property in its possession and from the property of all other persons. For greater certainty, the Trust Assets do not form part of or include the assets of an affiliate of the Trust or any other person, except to the extent that legal title to such property is held by the Trustees on behalf of the Trust.

17.12 Income Tax: Obligation of the Trustees

The Trustees will satisfy, perform and discharge all obligations and responsibilities of the Trustees under the Tax Act or any similar provincial legislation, and neither the Trust nor the Trustees are accountable or liable to any Trust Unitholders by reason of any act or acts of the Trustees consistent with, or which the Trustees believe in good faith to be consistent with, any such obligation so responsibilities.

17.13 Income Tax: Deductions

The Trustees will determine the tax deductions, allowances and credits to be claimed, and designations to be made by the Trust in any year, and the Trustees will claim such deductions, allowances and credits and make such designations for the purposes of computing the Income of the Trust and the amount of tax payable, if any, by the Trust pursuant to the provisions of the Tax Act and any similar provincial legislation.

ARTICLE 18 AUDITORS

18.1 Qualification of Auditors

The Auditors shall be an independent recognized firm of chartered accountants which has an office in Calgary, Alberta or elsewhere in Canada.

18.2 Appointment of Auditors

The Auditors shall initially be appointed by the Trustees and thereafter shall be appointed and removed at each annual meeting of Trust Unitholders by an Ordinary Resolution. If at any time a vacancy occurs in the position of Auditors, the Trustees may appoint a firm of qualified chartered accountants to act as the Auditors until the next annual meeting of the Trust Unitholders. Subject to applicable laws, between annual meetings, the Auditors may at any time be removed and new Auditors appointed by a majority of the Trustees. The Auditors will receive such remuneration as may be approved by the Trustees from time to time.

18.3 Report of Auditors

The Auditors shall report to the Trustees and the Unitholders on the annual financial statements of the Trust and shall fulfil such other responsibilities as they may properly be called upon by the Trustees to assume. The Auditors shall have access to all records relating to the affairs of the Trust. The Auditors shall receive such remuneration as may be approved by the Trustees.

ARTICLE 19 MISCELLANEOUS

19.1 Trustees May Hold Units

Any Trustee or associate of a Trustee may be a Trust Unitholder or may be an annuitant and may be required to hold Trust Units as the Board of Trustees may determine from time to time.

19.2 Successors and Assigns

The provisions of this Declaration of Trust enure to the benefit of and are binding upon, the parties and their heirs, executors, administrators, personal representatives, successors and assigns.

19.3 Severability

The provisions of this Declaration of Trust are severable. If any provision of this Declaration of Trust is to be held invalid or unenforceable in any jurisdiction, such invalidity or unenforceability attaches only to such provision in such jurisdiction and does not in any manner affect or render invalid or unenforceable such provision in any other jurisdiction or any other provision of this Declaration of Trust in any jurisdiction.

19.4 Language

Les parties aux présentes ont exigés que la présente convention ainsi que tous les documents et avis qui s'y rattachent et/ou qui en découleront soient rédigés en la langue anglaise. The parties hereto have required that this Declaration of Trust and all documents and notices resulting herefrom be drawn up in English.

19.5 Electronic Documents

Any requirement under this Declaration of Trust, the *Securities Act* (Alberta) or any other applicable law that a notice, statement, document or other information be created or provided is satisfied by the creation or provision of an electronic document to the extent permitted by law.

19.6 Counterparts

This Declaration of Trust may be simultaneously executed in several original or facsimile counterparts, each of which when so executed is deemed to be an original, and such counterparts together constitute one and the same instrument, which is sufficiently evidenced by any such original or facsimile counterparts. Counterparts may be executed either in original or faxed form, in portable document format (PDF) sent and received via email transmission, and the parties adopt any signatures received by a receiving fax machine or in portable document format via email transmission as original signatures of the parties. Any party providing its signature by fax or email in the foregoing manner shall use its reasonable commercial efforts to promptly forward to the other parties an original of the signed copy of this Declaration of Trust which was so faxed or emailed.

IN WITNESS WHEREOF each of the parties has caused this Declaration of Trust to be executed as of the date set out above.

A handwritten signature in black ink, appearing to read 'Sean Nakamoto', written over a horizontal line.

SEAN NAKAMOTO, Trustee